

THURSDAY, MAY 20, 2004

NINETY-FIRST LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:30 a.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Senator Herron.

PLEDGE OF ALLEGIANCE

Senator Jackson led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 32

Senators present were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

MOTION

Senator Person moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 773**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 773 -- General Assembly, Studies -- Creates special joint committee to study issues relating to pretrial release programs and other methods of releasing a person arrested for a crime prior to trial.

On motion of Senator Person, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 773** was concurred in by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 131 -- Public Defenders -- Increases authorized number of assistant public defender positions. Amends TCA Title 8, Chapter 14, Part 2.

House Bill No. 245 -- Pensions and Retirement Benefits -- Renames board responsible for implementation of deferred compensation program for state agency employees as board of trustees of consolidated retirement system instead of consolidated retirement board. Amends TCA Title 8, Chapter 25, Parts 1, 3, and 5; Title 8, Chapter 27.

House Bill No. 724 -- Plumbers and Plumbing -- Requires plumbers to be licensed by board for licensing contractors. Amends TCA Title 62, Chapter 6.

House Bill No. 1049 -- Game and Fish Laws -- Allows any person applying for hunting and fishing license as disabled veteran to have exemption from license fee whether application was entered before or after May 24, 2000. Amends TCA Title 70, Chapter 2.

House Bill No. 1275 -- Criminal Offenses -- Broadens definition of custodial interference to include removal of child born out of wedlock from mother who has rightful custody absent order of custody. Amends TCA Section 39-13-306.

House Bill No. 1364 -- Pensions and Retirement Benefits -- Increases allowable percentages of final average compensation which certain retirees may receive from Tennessee consolidated retirement system and superceded systems. Amends TCA Section 8-36-208.

House Bill No. 2134 -- Lottery -- Changes lottery scholarship eligibility requirements for graduates of home school programs and non-eligible high schools from composite ACT score of 23 to composite ACT score of 19. Amends TCA Title 49, Chapter 4, Part 9.

House Bill No. 2831 -- Firefighters -- Authorizes payment of \$25,000 from general fund to estate of firefighter killed in the line of duty. TCA Title 7, Chapter 51, Part 2.

House Bill No. 2859 -- State Inmates -- Establishes, under certain circumstances, the rate of indemnification for wrongful imprisonment. Amends TCA Title 9, Chapter 8.

House Bill No. 2867 -- State Employees -- Includes Tennessee Foreign Language Institute in-state institutions of higher education at which state employees may take one free course per term; reimbursement to come from existing funding. Amends TCA Section 8-50-114.

House Bill No. 3291 -- State Employees -- Revises compensation structure of Tennessee Bureau of Investigation employees. Amends TCA Title 38, Chapter 6.

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House Bill No. 3336 -- Pensions and Retirement Benefits -- Adds retired teacher to be appointed by governor to board of trustees of TCRS. Amends TCA Section 8-34-302.

House Bill No. 3471 -- Hospitals and Health Care Facilities -- Lowers annual regulatory fee paid to the Department of Health for homes for the aged with five beds or less from \$600 to \$200. Amends TCA Title 68.

House Bill No. 3620 -- Sharon -- Subject to local approval, regulates the parking and storage of motor vehicles within the city limits.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 3528 held on desk.

Senate Bill No. 3529 held on desk.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 1204 by Senator Burchett.
Memorials, Recognition -- Pastors Ed and Nora King.

Senate Joint Resolution No. 1205 by Senator Herron.
Memorials, Death -- Emerson Beck "Buzz" Tanner.

Senate Joint Resolution No. 1206 by Senator Fowler.
Memorials, Congress -- Urges Congress to amend Internal Revenue Code of 1986 to allow deduction of state and local sales taxes in lieu of state and local income taxes.

Senate Joint Resolution No. 1207 by Senator Herron.
Memorials, Death -- Robert Jeremy Crossett.

Senate Resolution No. 271 by Senator Crutchfield.
Memorials, Public Service -- Angels in Flight, Incorporated.

RESOLUTIONS LYING OVER

House Joint Resolution No. 773 -- General Assembly, Studies -- Creates special joint committee to study issues relating to pretrial release programs and other methods of releasing a person arrested for a crime prior to trial.

The Speaker announced that he had referred House Joint Resolution No. 773 to Committee on Delayed Bills.

House Joint Resolution No. 792 -- General Assembly, Directed Studies -- Directs the Tennessee Commission on Children and Youth in conjunction with the Department of Health to collect data regarding violent deaths among children in Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 792 to Committee on General Welfare, Health and Human Resources.

House Joint Resolution No. 953 -- General Assembly, Studies -- Creates a joint committee to study the need to require seatbelts on all vehicles used to transport school children.

The Speaker announced that he had referred House Joint Resolution No. 953 to Committee on Delayed Bills.

House Joint Resolution No. 1009 -- Naming and Designating -- Names Tennessee Fire Service and Codes Enforcement Academy in Bedford County in honor of Representative Clarence "Pete" Phillips.

The Speaker announced that he had referred House Joint Resolution No. 1009 to Committee on State and Local Government.

House Joint Resolution No. 1047 -- General Assembly, Studies -- Creates special joint committee to study local government modernization.

The Speaker announced that he had referred House Joint Resolution No. 1047 to Committee on Delayed Bills.

House Joint Resolution No. 1287 -- Memorials, Heroism -- 771st Maintenance Company, Hohenwald and Columbia.

The Speaker announced that he had referred House Joint Resolution No. 1287 to Committee on Calendar.

House Joint Resolution No. 1288 -- Memorials, Academic Achievement -- Laura Andrea Carroll, Salutatorian, Stony Fork School.

The Speaker announced that he had referred House Joint Resolution No. 1288 to Committee on Calendar.

House Joint Resolution No. 1289 -- Memorials, Academic Achievement -- Samantha Ann Phillips, Valedictorian, Stony Fork School.

The Speaker announced that he had referred House Joint Resolution No. 1289 to Committee on Calendar.

House Joint Resolution No. 1290 -- Memorials, Professional Achievement -- Brenda B. McKenzie, College of Business Administration, Entrepreneurship Hall of Fame, The University of Tennessee at Chattanooga.

The Speaker announced that he had referred House Joint Resolution No. 1290 to Committee on Calendar.

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House Joint Resolution No. 1292 -- Memorials, Sports -- Frank Wycheck.

The Speaker announced that he had referred House Joint Resolution No. 1292 to Committee on Calendar.

House Joint Resolution No. 1293 -- Memorials, Interns -- Sarah Nanney.

The Speaker announced that he had referred House Joint Resolution No. 1293 to Committee on Calendar.

House Joint Resolution No. 1294 -- Memorials, Recognition -- 40th anniversary of the Freedom Rides for Voter Education.

The Speaker announced that he had referred House Joint Resolution No. 1294 to Committee on Calendar.

House Joint Resolution No. 1296 -- Memorials, Recognition -- Holston Army Ammunition Plant/BAE Systems in Kingsport, Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 1296 to Committee on Calendar.

House Joint Resolution No. 1297 -- Memorials, Death -- Larry Miller Hunt.

The Speaker announced that he had referred House Joint Resolution No. 1297 to Committee on Calendar.

House Joint Resolution No. 1298 -- Memorials, Retirement -- Elaine Warwick.

The Speaker announced that he had referred House Joint Resolution No. 1298 to Committee on Calendar.

House Joint Resolution No. 1299 -- Memorials, Retirement -- Dr. Bobby Lee Freeman.

The Speaker announced that he had referred House Joint Resolution No. 1299 to Committee on Calendar.

House Joint Resolution No. 1300 -- Memorials, Recognition -- Sinking Creek Baptist Church.

The Speaker announced that he had referred House Joint Resolution No. 1300 to Committee on Calendar.

House Joint Resolution No. 1301 -- Memorials, Retirement -- Mike Rader.

The Speaker announced that he had referred House Joint Resolution No. 1301 to Committee on Calendar.

House Joint Resolution No. 1302 -- Memorials, Recognition -- Tommy Jenkins.

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The Speaker announced that he had referred House Joint Resolution No. 1302 to Committee on Calendar.

House Joint Resolution No. 1303 -- Memorials, Retirement -- Elaine B. Smith.

The Speaker announced that he had referred House Joint Resolution No. 1303 to Committee on Calendar.

House Joint Resolution No. 1304 -- Memorials, Interns -- Autumn Witt.

The Speaker announced that he had referred House Joint Resolution No. 1304 to Committee on Calendar.

House Joint Resolution No. 1305 -- Memorials, Interns -- George Norton.

The Speaker announced that he had referred House Joint Resolution No. 1305 to Committee on Calendar.

House Joint Resolution No. 1306 -- Memorials, Interns -- Aspen Stewart.

The Speaker announced that he had referred House Joint Resolution No. 1306 to Committee on Calendar.

House Joint Resolution No. 1307 -- Memorials, Interns -- Sarah Lutz.

The Speaker announced that he had referred House Joint Resolution No. 1307 to Committee on Calendar.

House Joint Resolution No. 1308 -- Memorials, Interns -- Robert DuFour.

The Speaker announced that he had referred House Joint Resolution No. 1308 to Committee on Calendar.

House Joint Resolution No. 1309 -- Memorials, Recognition -- Holland Kemp Rainey.

The Speaker announced that he had referred House Joint Resolution No. 1309 to Committee on Calendar.

House Joint Resolution No. 1310 -- Memorials, Personal Achievement -- Richard Eugene Durham, Sr., Most Worshipful Grandmaster of the F. and A.M. Masons in Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 1310 to Committee on Calendar.

House Joint Resolution No. 1311 -- Memorials, Recognition -- Virginia Sivley Turner.

The Speaker announced that he had referred House Joint Resolution No. 1311 to Committee on Calendar.

House Joint Resolution No. 1312 -- Memorials, Congratulations -- Caywood Elementary Energy Team.

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The Speaker announced that he had referred House Joint Resolution No. 1312 to Committee on Calendar.

House Joint Resolution No. 1313 -- Memorials, Interns -- Kenneth Andre Carpenter, Jr.

The Speaker announced that he had referred House Joint Resolution No. 1313 to Committee on Calendar.

House Joint Resolution No. 1314 -- Memorials, Retirement -- Joe Sims.

The Speaker announced that he had referred House Joint Resolution No. 1314 to Committee on Calendar.

Senate Joint Resolution No. 1185 -- Naming and Designating -- "Law Enforcement Week", July 4-10, 2004.

The Speaker announced that he had referred Senate Joint Resolution No. 1185 to Committee on State and Local Government.

Senate Joint Resolution No. 1186 -- Naming and Designating -- Week of September 11, 2004, as "Firefighters' Week" in Tennessee.

The Speaker announced that he had referred Senate Joint Resolution No. 1186 to Committee on State and Local Government.

Senate Resolution No. 268 -- Memorials, Interns -- Sherene Gharanfoli.

The Speaker announced that he had referred Senate Resolution No. 268 to Committee on Calendar.

REPORT OF COMMITTEE ON CALENDAR #2

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 20, 2004: Senate Bills Nos. 51, 2449, 214, 962, 1907, 2114 and 2726.

This the 20th day of May, 2004.
CROWE, Chairperson.

MOTION

Senator Cohen moved that Rule 83 be suspended for the purpose of allowing the Committee on State and Local Government to meet during the Senate's first recess today to consider **Senate Bill No. 3277**, which motion prevailed.

MOTION

Senator Clabough moved that Rule 83 be suspended for the purpose of allowing the Committee on Commerce, Labor and Agriculture to meet during the Senate's first recess today to consider **Senate Bill No. 905**, which motion prevailed.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Graves as Speaker pro tempore.

MOTION

Senator Henry moved that Rule 83 be suspended for the purpose of allowing the Committee on Finance, Ways and Means to meet during the Senate's first recess today, at the conclusion of the meetings of the Committees on State and Local Government and Commerce, Labor and Agriculture, to consider **Senate Bills Nos. 905 and 3277**, which motion prevailed.

CONSENT CALENDAR NO. 1

Senate Resolution No. 268 -- Memorials, Interns -- Sherene Gharanfoli.

House Joint Resolution No. 1287 -- Memorials, Heroism -- 771st Maintenance Company, Hohenwald and Columbia.

House Joint Resolution No. 1288 -- Memorials, Academic Achievement -- Laura Andrea Carroll, Salutatorian, Stony Fork School.

House Joint Resolution No. 1289 -- Memorials, Academic Achievement -- Samantha Ann Phillips, Valedictorian, Stony Fork School.

House Joint Resolution No. 1290 -- Memorials, Professional Achievement -- Brenda B. McKenzie, College of Business Administration, Entrepreneurship Hall of Fame, The University of Tennessee at Chattanooga.

House Joint Resolution No. 1292 -- Memorials, Sports -- Frank Wycheck.

House Joint Resolution No. 1293 -- Memorials, Interns -- Sarah Nanney.

House Joint Resolution No. 1294 -- Memorials, Recognition -- 40th anniversary of the Freedom Rides for Voter Education.

House Joint Resolution No. 1296 -- Memorials, Recognition -- Holston Army Ammunition Plant/BAE Systems in Kingsport, Tennessee.

House Joint Resolution No. 1297 -- Memorials, Death -- Larry Miller Hunt.

House Joint Resolution No. 1298 -- Memorials, Retirement -- Elaine Warwick.

House Joint Resolution No. 1299 -- Memorials, Retirement -- Dr. Bobby Lee Freeman.

House Joint Resolution No. 1300 -- Memorials, Recognition -- Sinking Creek Baptist Church.

House Joint Resolution No. 1301 -- Memorials, Retirement -- Mike Rader.

House Joint Resolution No. 1302 -- Memorials, Recognition -- Tommy Jenkins.

House Joint Resolution No. 1303 -- Memorials, Retirement -- Elaine B. Smith.

House Joint Resolution No. 1304 -- Memorials, Interns -- Autumn Witt.

House Joint Resolution No. 1305 -- Memorials, Interns -- George Norton.

House Joint Resolution No. 1306 -- Memorials, Interns -- Aspen Stewart.

House Joint Resolution No. 1307 -- Memorials, Interns -- Sarah Lutz.

House Joint Resolution No. 1308 -- Memorials, Interns -- Robert DuFour.

House Joint Resolution No. 1309 -- Memorials, Recognition -- Holland Kemp Rainey.

House Joint Resolution No. 1310 -- Memorials, Personal Achievement -- Richard Eugene Durham, Sr., Most Worshipful Grandmaster of the F. and A.M. Masons in Tennessee.

House Joint Resolution No. 1311 -- Memorials, Recognition -- Virginia Sivley Turner.

House Joint Resolution No. 1312 -- Memorials, Congratulations -- Caywood Elementary Energy Team.

House Joint Resolution No. 1313 -- Memorials, Interns -- Kenneth Andre Carpenter, Jr.

House Joint Resolution No. 1314 -- Memorials, Retirement -- Joe Sims.

Senator Crowe moved that all Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

Senate Bill No. 784 -- Criminal Offenses -- Broadens definition of custodial interference to include removal of child born out of wedlock from mother who has rightful custody absent order of custody. Amends TCA Section 39-13-306.

On motion, Senate Bill No. 784 was made to conform with **House Bill No. 1275**.

On motion, House Bill No. 1275, on same subject, was substituted for Senate Bill No. 784.

Senate Bill No. 2065 -- Highway Signs -- "Sergeant Jerry Mundy and Deputy John Musice Memorial Interchange", Exit 226 on I-40 at Mt. Juliet Road (S.R. 171) in Wilson County.

On motion, Senate Bill No. 2065 was made to conform with **House Bill No. 2959**.

On motion, House Bill No. 2959, on same subject, was substituted for Senate Bill No. 2065.

Senate Bill No. 2842 -- Hospitals and Health Care Facilities -- Requires outpatient diagnostic centers to be licensed. Amends TCA Title 11 and Title 68, Chapter 1.

On motion, Senate Bill No. 2842 was made to conform with **House Bill No. 3449**.

On motion, House Bill No. 3449, on same subject, was substituted for Senate Bill No. 2842.

Senate Bill No. 3385 -- Sports -- Repeals authorization for and all provisions relating to toughman and badman matches. Repeals TCA Title 68, Chapter 115, Part 4.

On motion, Senate Bill No. 3385 was made to conform with **House Bill No. 3526**.

On motion, House Bill No. 3526, on same subject, was substituted for Senate Bill No. 3385.

Senate Bill No. 3417 -- Finance and Administration, Dept. of -- Allows commissioner to issue warrant if refusing to issue warrant would result in interruption of essential services. Amends TCA Section 9-4-604.

On motion, Senate Bill No. 3417 was made to conform with **House Bill No. 3527**.

On motion, House Bill No. 3527, on same subject, was substituted for Senate Bill No. 3417.

Senator Crowe moved that all Senate Bills and House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--28.

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 3527 -- Morgan County -- Subject to local approval, redesignates the office of "county mayor" in Morgan County as "county executive".

On motion, Senate Bill No. 3527 was made to conform with **House Bill No. 3619**.

On motion, House Bill No. 3619, on same subject, was substituted for Senate Bill No. 3527.

Senator Crowe moved that **House Bill No. 3619** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

MOTION

Senator Crowe moved that Rule 19 be suspended for the purpose of considering the Message Calendar next, which motion prevailed.

SENATE MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 596 -- Special License Plates -- Increases from three to five years period of moratorium for re-issuance of special license plates deemed obsolete and invalid; defines "a plate substantially the same in appearance or content" for purposes of moratorium.

HOUSE AMENDMENT NO. 2

AMEND by adding the following language as a new appropriately numbered section:

SECTION __. Tennessee Code Annotated, Section 55-4-132(b), is amended by deleting the first sentence in its entirety and substituting a new first sentence to read:

(b) All revenues received from such fees shall be earmarked and used solely for the development, acquisition and updating of a computerized titling and registration system and for the operation of the titling and registration system.

Senator Kyle moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 596**, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Southerland, Trail and Williams--28.

A motion to reconsider was tabled.

Senator Kyle moved that **Senate Bill No. 601** be considered immediately after the first recess today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2137 -- Military -- Extends 90-day extension of deadline for payment of property taxes, professional privilege taxes, and Hall income tax for military personnel on active duty to 180 days. Amends TCA Title 67.

HOUSE AMENDMENT NO. 1

AMEND by adding the following language as a new, appropriately designated section to precede the final section:

SECTION __. Tennessee Code Annotated, Section 67-5-2011, is further amended by substituting the words "county trustee" for the words "Commissioner of Revenue" in subsection (b) and by deleting subsection (c) in its entirety and by substituting instead the following:

(c) The trustee shall give notice of approved applications to city collecting officials and to the clerk and master of the chancery court.

Senator Kurita moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2137**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

Senator Williams moved that **Senate Bill No. 2152** be returned to the House, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2180 -- Public Records -- Authorizes registration of copy of writing eligible for retention as an electronic record, in lieu of original, if copy is certified by custodian of electronic record; county register may specify whether copy to be registered must be in paper or electronic form. Amends TCA Section 66-24-101.

HOUSE AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION __. Tennessee Code Annotated, Section 66-24-101, is amended by adding the following language as a new, appropriately designated subsection:

() A writing evidencing an environmental hazard or condition is eligible for registration only if:

(1) The maker is the Commissioner of the Tennessee Department of Environment and Conservation according to state statutory law; or

(2) The maker is the United States Environmental Protection Agency; or

(3) The writing is mandated by court order upon a finding of an environmental hazard that poses a continuing threat to occupancy based upon, at a minimum, a Phase II environmental audit by a registered engineering firm.

() Any party to a mortgage or deed of trust, including any secured party, may register a formal deed of release or a modification or cancellation for any notice of environmental hazard or condition upon satisfaction that such hazard or condition no longer exists or has been reduced as certified by a registered engineering firm or by the Tennessee Department of Environment and Conservation or the United States Environmental Protection Agency. A writing shall not be eligible for registration under this subsection unless the aforementioned certification by a registered engineering firm or government agency is attached.

Senator Fowler moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 2180**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 3

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 66-24-101, is amended by adding the following new subsection (c):

(c) If any writing otherwise eligible for registration under subsection (a) is created or retained as an electronic record in accordance with § 47-10-112, and other provisions of the Uniform Electronic Transactions Act or any other provision of law, then a copy of such writing, in lieu of the original, may be registered under this section; provided that such copy is certified by a licensed attorney or the custodian of the record that such copy is a true and accurate copy of the original and the signature of such attorney or custodian is notarized. The county register may specify whether the copy to be registered shall be in paper or electronic form.

The Certification of Electronic Document shall be notarized and shall be substantially in the following form and shall not obstruct any of the contents of the document being tendered:

I, _____, do hereby make oath that I am a licensed attorney and/or the custodian of the paper version of the electronic record tendered for registration herewith and that this is a true and correct copy of the electronic record executed pursuant to § 47-10-112 and other provisions of the Uniform Electronic Transactions Act or other provisions of law.

Signature

State of _____
County of _____

Personally appeared before me, _____, a notary public for said county and state, _____ (name of person making certification) who acknowledges that this certification is true and correct and whose signature I have witnessed.

Notary's Signature

MY COMMISSION EXPIRES: _____

NOTARY'S ORIGINAL SEAL

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Fowler moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 2180**, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senator Cooper moved that **Senate Bill No. 2329** lay on the desk, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2419 -- Taxes, Excise -- Provides for taxation of unauthorized substances. Amends TCA Title 67, Chapter 4.

HOUSE AMENDMENT NO. 2

AMEND by deleting the language "The provisions of Section 67-6-1802" from Section 8 and by substituting instead the language "The provisions of Section 67-1-1802".

Senator McNally moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 2419**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2479 -- Sunset Laws -- State university and community college system, board of regents, June 30, 2008. Amends TCA Title 4, Chapter 29 and Title 49, Chapter 8.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 2 of the bill and substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 4-29-228(a), is amended by adding a new item thereto, as follows:

() State university and community college system, board of regents, created by § 49-8-201;

Senator Harper moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 2479**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2571 -- Special License Plates -- Permits veterans less than 100 percent permanently and totally disabled from service-connected disability to obtain disabled veteran license plate upon paying regular registration fees and a fee equal to the cost of actually producing such plate. Amends TCA Title 55, Chapter 4.

HOUSE AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-4-202(c)(5)(U), is amended by adding the following language as a new, appropriately designated subdivision:

() Handicapped Veteran;

SECTION 2. Tennessee Code Annotated, Section 55-4-203(c)(1), is amended by adding the following language as a new, appropriately designated subdivision:

() Handicapped Veteran;

SECTION 3. Tennessee Code Annotated, Title 55, Chapter 4, Part 2, is amended by adding the following as a new, appropriately designated section:

(a) Handicapped veterans who are residents of Tennessee and who own or lease a motor vehicle in Tennessee, upon complying with state motor vehicle laws relating to registration and licensing of motor vehicles and paying the regular fee applicable to the motor vehicle and the fee provided for in § 55-4-203, shall be issued a "Handicapped Veteran" license plate for a motor vehicle authorized by § 55-4-210(c).

(b) Such plates shall bear the words "Handicapped Veteran" and a registration number composed of the prefix "HV" and a unique identifying number.

(c) For the purposes of this section, "handicapped veteran" means a veteran who has served in the United States Armed Forces, who is a resident of Tennessee, and who has a service-connected disability which is determined by the federal Department of Veterans Affairs to constitute less than one hundred percent (100%) permanent total disability.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator Burchett moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2571**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2594 -- Public Contracts -- Prohibits discrimination of faith based providers in state and local contracts for goods and services provided through, or administered by, the Departments of Children Services, Health and Human Services. Amends TCA Title 12, Chapter 4.

HOUSE AMENDMENT NO. 1

AMEND by adding the following language to subsection (a) of Section 1 of the bill after the words "religious organizations":

or discrimination based on race, age, color, sex, or national origin

Senator Bryson moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2594**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2915 -- Sunset Laws -- Deletes reference in sunset laws to terminated governmental entity, public safety committee. Amends TCA Title 4, Chapter 29.

HOUSE AMENDMENT NO. 1

AMEND by adding the following as a new section to precede the effective date section:

SECTION _____. Tennessee Code Annotated, Section 4-29-104, is amended by deleting the existing subsection (d) in its entirety and by substituting instead the following:

(d) Notwithstanding the provisions of § 4-29-115 or any other provision of law to the contrary, if the evaluation committee created in § 4-29-103 has not completed a public hearing regarding a governmental entity and such entity is due to terminate on or by June 30 of the current calendar year, then such entity shall be extended for one (1) year, or until the committee conducts the public hearing and the general assembly acts to terminate, continue, reestablish or restructure the governmental entity, whichever occurs first. The Tennessee Code Commission is specifically authorized to revise the termination date of any governmental entity subject to the provisions of this subsection.

Senator Harper moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 2915**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2916 -- Aged Persons -- Requires the Commissioner of Finance and Administration to study and make recommendations to legislative committees by January 15, 2005, concerning merging functions of agencies serving the elderly and the disabled into a single entity as recommended in a recent comptroller's report. Amends TCA Title 4; Title 33; Title 50; Title 68 and Title 71.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. (a) There is established a task force on services for elderly and disabled Tennesseans. The task force shall consist of ten (10) members, which shall include four (4) members of the Senate and four (4) members of the House of Representatives who shall be appointed by the respective Speakers, and two (2) members to be appointed by the governor from among the governor's staff members.

(b) The task force shall examine the recommendations of the comptroller of the treasury's report "Serving the Aged and Disabled: Progress and Issues" (December 2003). The task force shall develop recommendations for restructuring services and supports to the aged and disabled populations, with particular attention to those programs and populations that have some relationship to the commission on aging. The task force shall review the functions of the various departments and agencies related to the protection and provision of long-term care needs for the elderly and the disabled.

(c) The task force shall be convened by the member of the general assembly with the longest legislative service. At the organizational meeting, a chair, a vice-chair and secretary shall be elected from the task force's membership.

(d) The Commission on Aging and disability shall provide primary staff support to the task force with assistance from the Department of Finance and Administration and the comptroller. The task force is also authorized to request and receive assistance from any department, agency or entity of state government, upon request of the chair.

(e) The task force shall report its findings and any recommended legislation to the House Health and Human Resources Committee and the Senate General Welfare, Health and Human Resources Committee on or before January 15, 2005.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Harper moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2916**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3066 -- Motor Vehicles, Titling and Registration -- Authorizes issuance of emergency special license plates to physicians and osteopathic examinations. Amends TCA Title 55, Chapter 4.

HOUSE AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 55-4-280, is amended by adding the following language as a new subsection:

(d) Notwithstanding the provisions of § 55-4-201(h)(3)(B) or any other law to the contrary, under no circumstances shall the specialty earmarked license plate authorized by the provisions of this section be deemed obsolete or invalid prior to July 1, 2005. If, prior to such date, the minimum order requirements of § 55-4-201(h)(3)(B) are initially met, then such plate shall be administratively issued.

Senator Ramsey moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3066**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3100 -- Special License Plates -- Authorizes issuance of Eastern Box Turtle new specialty license plate; allocates 50 percent of funds produced from sale thereof to the wildlife resources fund. Amends TCA Title 55.

HOUSE AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-9-602(k), is amended by adding the following language as a new subdivision thereto:

(3) Notwithstanding any provision of this subsection to the contrary, if a party to the civil action is not the parent or legal guardian, then evidence of a failure to use a child restraint system, as required by this section, may be admitted in such action as to the causal relationship between non-compliance and the injuries alleged.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

Senator Haynes moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3100**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3115 -- Emergency Communications Districts -- Allows board of directors to determine emergency telephone service charge to fund 911 service; increases percentage of revenue from commercial mobile radio service charge that goes to districts from 25 to 40 percent; directs TACIR to study 911 system technology and fee structure. Amends TCA Title 7, Chapter 86.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The Tennessee advisory commission on intergovernmental relations is directed to conduct, within existing resources, an expedited, comprehensive study of all aspects of Tennessee's emergency telephone service (911) statutes, including, but not limited to, local emergency communications districts and their respective boards, the state emergency communications board, the provision of enhanced 911 service, and the assessment of emergency telephone service charges upon telecommunications service providers and customers.

SECTION 2. In conducting such study, the Tennessee advisory commission on intergovernmental relations shall specifically examine the funding mechanisms and the adequacy of the funding for local emergency communications districts and their respective boards, as well as the state emergency communications board.

SECTION 3. Such study shall also evaluate the feasibility and necessity of:

- (1) Increasing emergency telephone service charges on telephone land lines and wireless telecommunications services; and
- (2) Revising the statutory assessment formula for funding emergency telephone services.

SECTION 4. The Tennessee advisory commission on intergovernmental relations shall complete such study relative to emergency telephone service (911) and report its findings and recommendations, including any necessary legislation, to the general assembly no later than February 1, 2006.

SECTION 5. Tennessee Code Annotated, Section 7-86-306(a), is amended by deleting subdivision (10) in its entirety and substituting instead the following:

Respond to requests from emergency communications districts, commercial mobile radio service providers or other parties and subject to availability of funds, review and approve requests for reimbursements for expenditures or payment of obligations incurred to implement, operate, maintain, or enhance statewide wireless enhanced 911 service in conformance with any rules or orders of the Federal Communications Commission, and other federal and state requirements that pertain to wireless enhanced 911 service;

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Cooper moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3115**, which motion prevailed by the following vote:

Ayes	31
Noes	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

Senator voting no was: Fowler--1.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3137 -- Naming and Designating -- Names new state veterans home in Knoxville in honor of Senator Ben Atchley.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new section immediately preceding the last section of the bill as amended and by renumbering the subsequent section accordingly:

SECTION _____. In addition to the signage provided for in Section 2, suitable signs may be installed at the new State Veterans Home in Knoxville to honor those worthy citizens responsible for the existence of such facility, provided that the cost of the manufacture and installation of such signs is paid from non-state funds.

Senator Burchett moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3137**, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3320 -- Mental Health and Developmental Disabilities, Dept. of -- Directs department to study feasibility of guardianship program for mentally disabled persons. Amends TCA Title 33 and Title 34.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 1, is amended by adding the following as a new, appropriately designated section:

33-1-____. The division of mental retardation services of the Department of Finance and Administration, and the Department of Mental Health and Developmental Disabilities along with the Department of Human Services and the Department of Children's Services are directed to study the feasibility of a guardianship program for persons who are mentally disabled and/or physically disabled. Such study to include an analysis of the existing conservatorship statutes. Such program may be similar to the guardianship program for the elderly administered by the Commission on Aging created in § 34-7-103. The departments shall study the financial impact of such a program and shall find out whether any federal grants exist to help fund such a program. All departments and the comptroller of the treasury shall cooperate with these departments in assisting the study of such guardianship program. The departments shall also solicit input and resources from interested organizations in helping them study the development of such guardianship program. The departments shall report their findings and suggested legislation to the governor, the Senate General Welfare, Health and Human Resources Committee and the House Health and Human Resources Committee by January 15, 2005.

SECTION 2. It is the legislative intent that this act not be codified by the Tennessee Code Commission.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it. This act shall be repealed on June 30, 2006, the public welfare requiring it.

Senator Burks moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3320**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3336 -- Utilities, Utility Districts -- Provides for selection of additional commissioners for certain multi-county water utility districts having a service area primarily located in DeKalb County. Amends TCA Section 7-82-307.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as a new, appropriately designated subsection:

(___)(1) Notwithstanding any provision of this section or any other law to the contrary, the membership of the board of commissioners for any multi-county water utility district, whose principal office is located in, and whose present service area primarily lies within, the boundaries of any county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census and containing and physically divided by a United States government corps of engineers dam and reservoir project of thirty-four thousand (34,000) acres, shall be as provided in this subsection. On the effective date of this act, board membership from the county containing the principal office and the primary service area of such utility district shall be increased by two (2) members giving such county three (3) members on the board. The other two (2) counties within the service area having not less than one hundred fifty (150) customers shall be represented by one (1) board member from each such county and the two (2) present board members shall continue to serve on the board for the remainder of their terms and be appointed from such counties as otherwise provided by law.

(2) The two (2) new members of the board of commissioners added pursuant to subdivision (1) shall be filled by appointment of the county mayor of the county containing the principal office and the primary service area of such utility district. As soon as possible after the effective date of this act, the existing board of commissioners shall select three (3) nominees for each of such two (2) new members, in full accordance with any residential requirements that may apply to the office created, and under the seal of the board of commissioners, shall certify such lists of nominees to such county mayor. Within twenty-one (21) days after the issuance of certification by the board of commissioners to the county mayor, the county mayor may enter an order either appointing one (1) of the nominees from each such list or rejecting one of the lists or both lists. Any order either appointing or rejecting a list of nominees shall be entered of record on the minutes of the county legislative body and a certified copy thereof shall be furnished to the board of commissioners and to the appointee; provided, that upon the rejection of any entire list of nominees by the county mayor, the board of commissioners shall continue to submit new nonidentical lists of three (3) nominees to the county mayor within sixty (60) days after each such rejection until such procedure shall result in the position being filled for the new term, as herein provided. If the county mayor fails to make an appointment for a position from such list or

lists following three (3) submissions for such position, then the county mayor shall appoint the director or directors for such position or positions, as the case may be, without any further nominations.

(3) Notwithstanding any provision of this section or any other law to the contrary, within two (2) weeks after the occurrence of a vacancy in the office of any commissioner and no later than thirty (30) days prior to the scheduled expiration of the term of office of any incumbent commissioner, the board of commissioners or its remaining members shall select three (3) nominees to fill such office, in full accordance with residential requirements applicable to the office vacated or to be vacated, and, under the seal of the board of commissioners, shall certify such list of nominees to the county mayor of the county whose representation on the board will be directly affected by the vacancy. Copies shall also be sent to the county mayors of the other two (2) counties. If all three (3) nominees are rejected by the mayor of the affected county, then the nominating process shall be repeated and repeated again, if necessary. Thereafter, without any further nominations, the county mayor shall appoint a person to fill such vacancy for the remainder of the term or for the next term of office.

(4) Notwithstanding any provision of this section or any other law to the contrary, any member of the board of commissioners appointed by a county mayor in the water utility district described in subdivision (1) shall not have to be approved by the other county mayors in such district.

(5) No later than January 31 of each year the chairman of the board of commissioners shall certify the number of customers within each county and mail a list of customers from each such county to the appropriate county mayor.

(6) Notwithstanding any provision of this section or any other law to the contrary, no contract entered into or renewed after the effective date of this act for the sale of water to a water utility district described in subdivision (1) shall, and it is against public policy for such a contract to, contain a clause which prohibits the district from lawfully selling water to other municipalities or governmental entities.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Trail moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3336**, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1249 -- Ethics -- Requires disclosure of consulting contracts by members of general assembly. Amends TCA Title 2, Chapter 10; Title 3 and Title 12.

Senator Trail moved that the Senate refuse to recede from its action in adopting Senate Amendments Nos. 1, 2 and 4 to **House Bill No. 1249**, which motion prevailed.

Senator Kilby moved that **House Bill No. 2565** be moved three places down on the Message Calendar for today, which motion prevailed.

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL NO. 2813/SENATE BILL NO. 2833**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 2813 (Senate Bill No. 2833) has met and recommends that the following amendments be deleted: House Amendment No. 1 and Senate Amendment No. 1.

The committee further recommends that the following amendment be adopted:

AMEND by deleting from subdivision (D) of the amendatory language of Section 1 the language "As used in this section, "emergency placement" refers to" and substituting instead the language "As used in this section, "emergency situation" refers to".

AND FURTHER AMEND by adding the following new subdivision (D) to the amendatory language of SECTION 1 and by relettering present subdivision (D) to be (E):

(D) The Tennessee Bureau of Investigation may charge a reasonable fee not to exceed seventy dollars (\$70) for processing a fingerprint-based criminal history record check pursuant to this subdivision.

/s/ Senator Doug Jackson
Senator Bill Ketron
/s/ Senator Tommy Kilby
/s/ Senator Steve Southerland
/s/ Senator Larry Trail

/s/ Representative William Kent Coleman
/s/ Representative Tommy Head
/s/ Representative Phillip Johnson
/s/ Representative Joe Kent
/s/ Representative Brenda Turner

Senator Trail moved that the Conference Committee Report on **House Bill No. 2813** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita,

McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2276 -- Solid Waste Disposal -- Exempts sinkhole disposal of solid waste from exemption on disposal on private land; and imposes \$1,000-\$5,000 penalty for sinkhole disposal of solid waste. Amends TCA Title 68, Chapter 211.

Senator Burchett moved to lift from the table a motion to reconsider on **House Bill No. 2276**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in passing **House Bill No. 2276**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in adopting Senate Amendment No. 1 to **House Bill No. 2276**, which motion prevailed.

Senator Burchett moved that Senate Amendment No. 1 to **House Bill No. 2276** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2276** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senator Kilby moved that **House Bill No. 2565** be moved five places down on the Message Calendar for today, which motion prevailed.

NOTICE

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return House Bill No. 2553, for further consideration.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

Senator Kilby moved that Rule 37 be suspended for the immediate consideration of **House Bill No. 2553**, out of order, which motion prevailed.

House Bill No. 2553 -- Taxes, Sales -- Provides for distribution to Campbell County of certain sales taxes collected in a portion of that county. Amends TCA Title 67, Chapter 6.

Senator Kilby moved to lift from the table a motion to reconsider on **House Bill No. 2553**, which motion prevailed.

Senator Kilby moved that the Senate reconsider its action in passing **House Bill No. 2553**, which motion prevailed.

Senator Kilby moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection thereto:

(h) Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is located property owned by the Tennessee Valley Authority over which an easement has been given to the State of Tennessee and the state has then leased or otherwise conveyed its rights to such county for development the amount of sales tax derived from any sales on such property. Any such county complying with the restrictions described in the preceding sentence is authorized to pledge such sales taxes to indebtedness incurred by such county to the same extent that the county may pledge any revenues of the county.

SECTION 2. This act shall become operative only if the estimated cost of software changes necessary to implement the provisions of this act are paid to the Department of Revenue by Campbell County. Such payment shall be made prior to any expenditure of funds by the state. The department shall return any unused portion of the estimated cost to Campbell County within thirty (30) days of completion of the software changes necessary to implement the provisions of this act. If the actual cost exceeds the estimated cost, an amount equal to the difference in such costs shall be remitted to the department by Campbell County within thirty (30) days of receiving an itemized invoice of the actual cost from the department.

SECTION 3. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 4 was adopted.

Thereupon, **House Bill No. 2553**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron,

Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Kilby moved that **House Bill No. 2565** be considered next, out of order, which motion prevailed.

House Bill No. 2565 -- Taxes, Litigation -- Allows counties, by two-thirds vote, to set and collect a litigation tax on litigation in general sessions, juvenile and municipal courts in that county to be used to fund a not-for-profit drug testing program in public schools. Amends TCA Title 67, Chapter 4.

Senator Kilby moved to lift from the table a motion to reconsider on **House Bill No. 2565**, which motion prevailed.

Senator Kilby moved that the Senate reconsider its action in passing **House Bill No. 2565**, which motion prevailed.

Senator Kilby moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 2565**, which motion prevailed.

Senator Kilby moved that Amendment No. 1 to **House Bill No. 2565** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2565** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

MOTION

Senator Burchett moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 1204**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 1204 -- Memorials, Recognition -- Pastors Ed and Nora King.

On motion of Senator Burchett, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 1204** was adopted.

A motion to reconsider was tabled.

MOTION

Senator Harper moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 890**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 890 -- General Assembly, Studies -- Creates committee to study disproportionate minority confinement in juvenile justice system.

On motion of Senator Harper, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 890** was concurred in.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 1137**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 1137 -- Naming and Designating -- National Nurses Week, May 6-12, 2004.

On motion of Senator Crowe, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 1137** was concurred in.

A motion to reconsider was tabled.

CALENDAR NO. 1

Senator McNally moved that **House Joint Resolution No. 776** be placed at the heel of the calendar for today, which motion prevailed.

House Joint Resolution No. 1078 -- Highway Signs -- "James U.L. Scott Memorial Bridge", S.R. 53 in Jackson County.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following as new resolving clauses to precede the final resolving clause:

BE IT FURTHER RESOLVED, that this act shall become operative only if Jackson County, Tennessee, either remits the estimated cost of the erection of such signs to the Department of Transportation within one (1) year of the effective date of this act or manufactures such signs in accordance with the provisions of this resolution. Jackson County shall make such payment prior to any expenditure by the state for the manufacture or installation of such signs. The department shall return any unused portion of the estimated cost to Jackson County within thirty (30) days of the erection of such signs. If the actual cost exceeds the estimated cost, Jackson County shall remit an amount equal to the difference in such costs to the department within thirty (30) days of receiving an itemized invoice of the actual cost from the department.

BE IT FURTHER RESOLVED, that Jackson County may manufacture and erect such signs provided that such signs are manufactured and erected pursuant to state and federal guidelines and approved by the department.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Joint Resolution No. 1078**, as amended, was concurred in by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 30 -- Criminal Offenses -- Expands crime of retaliation for past action to include threats against family members. Amends TCA Section 39-16-510.

On motion, Senate Bill No. 30 was made to conform with **House Bill No. 64**.

On motion, House Bill No. 64, on same subject, was substituted for Senate Bill No. 30.

Thereupon, **House Bill No. 64** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senator Bryson moved that **Senate Bill No. 117** be placed at the heel of the calendar for today, which motion prevailed.

Senate Bill No. 429 -- Bond Issues -- Provides for issue of state bonds in amount of \$260,000,000 for education capital projects. Amends TCA Titles 49, 57, and 67.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the caption of the printed bill and by substituting instead the following:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell direct general obligation interest-bearing bonds of the State of Tennessee in amounts not to exceed forty million one hundred eighty thousand dollars (\$40,180,000) to effectuate the purposes specified in Section 4 of this act. Further, the funding board is authorized to sell bonds in amounts not to exceed 2.5% of the amounts specified above and authorized in Section 4, for the purpose of funding discount and costs of issuance. Such bonds may be issued and sold in one (1) block or in several installments and separately or together with other general obligation bonds of the State of Tennessee as the board may determine, after advertisement as provided by law.

SECTION 2. The bonds and the interest-bearing coupons attached thereto, if any, shall be in such form, mature at such time or times within twenty (20) years from the date of their issuance, be executed in such manner, be payable at such place or places both as to principal and interest, and be in such denomination and bear such rate of interest, payable in such manner, as the funding board shall by resolution direct; provided, however, that the maximum rate determined by the funding board in no instance shall exceed the legal rate as provided in Section 47-14-103 of the Tennessee Code Annotated. The bonds shall be sold by the funding board after advertisement as provided by law, together with the accrued interest thereon, and when they have been sold, the proceeds derived from the sale thereof shall be paid to the state treasurer to be disbursed by the treasurer and other fiscal officers and agencies of the state as provided by the general law and this act. The bonds and interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes.

SECTION 3. When the bonds are so issued and sold, they shall be direct general obligations of the State of Tennessee for the payment of which well and truly to be made according to the tenor, effect and terms thereof the full faith and credit of the state together with its taxing power, shall irrevocably be pledged; and the bonds as authorized herein shall be issued agreeable to the terms of Title 9, Chapter 9, Tennessee Code Annotated; and they shall be financed, retired, and paid both as to principal and interest as provided in that chapter and shall be subject to the terms and conditions therein and herein contained. When the bonds are sold and proceeds paid over to the state treasurer, the funds shall be paid out by the treasurer and the proper fiscal officers of the state, as provided by general law, but only on order of the proper administrative authorities of the agency or department herein named for the benefit of which such bonds have been authorized and only to the extent such bonds have in fact been issued for the benefit of such agency or department.

SECTION 4. The proceeds of any and all issues of bonds herein authorized shall be allocated to the following departments:

(1) Department of Finance and Administration in the amount of forty million one hundred eighty thousand dollars (\$40,180,000) and expended for the purpose of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvement, betterments and extraordinary repairs to existing structures.

In its discretion the funding board is authorized to issue bonds in amounts not to exceed 2.5% of the amounts specified above, the proceeds of which are to be allocated to the funding board and expended for the purpose of funding discount and the costs of issuance.

SECTION 5. The proper authorities heretofore enumerated and charged with the duty of expending the funds shall have authority to proceed with the projects authorized herein and for that purpose may hire an architect or architects, advertise for low bids and award contracts to low bidders, all within the provisions of the general law, expressly including the provisions of Title 4, Chapter 15, Tennessee Code Annotated, and in agreement with the terms of this act. No contract, including a contract for architectural services, involving a project authorized by this act which is subject to the approval of the state building commission shall be entered into unless and until that contract shall have been approved by the building commission.

SECTION 6. The appropriation made to each agency or department as provided in Section 4 may be applied as determined by the funding board to bear its appropriate portion of discount and costs of issuance.

SECTION 7. Pending the issuance of the definite bonds authorized by this act, the State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell, either at public or private sale, together with accrued interest thereon, its interest-bearing bond anticipation note or notes. Such note or notes shall be authorized by resolution of the funding board, shall bear such date or dates, as such resolution or resolutions provide. The note or notes shall bear interest at such rate or rates, be in such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places and mature on such date(s), subject to such terms and conditions as such resolution or resolutions may provide. In its discretion, the funding board may provide that a bond anticipation note or any renewal of such note may mature more than five (5) years from the date of issue of the original note; provided, that an amortization schedule of repayment of principal is established for the project funded by the note and provisions are made such that any note or renewal note or bond refunding such note attributed to the financing of such project shall be redeemed or retired either twenty-five (25) years from the date of issue of such original note or twenty (20) years from the date the project is completed and placed in full service, whichever is earlier. Provisions of general law with respect to authentication, execution and registration of general obligation bonds of the State of Tennessee shall also apply to the notes to the extent applicable. The note or notes and the interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes. Any resolution or resolutions of the funding board authorizing the issuance of such bond anticipation note or notes shall provide that the same are issued in anticipation of the bonds authorized hereunder and shall further provide that the full faith and credit of the State of Tennessee are pledged to the payment thereof.

SECTION 8. No bonds shall be issued under the authority of this act until such time as the general assembly has appropriated sufficient funds to pay the first year's obligation of

principal and interest on the amount of bonds to be issued and the state funding board has determined that such funds are available.

SECTION 9. Notwithstanding any other provision of this act to the contrary, the bonds and bond anticipation notes authorized by this act may be designated "college savings bonds" and be issued pursuant to the provisions of the Baccalaureate Education Savings for Tennessee Act, Chapter 190, Public Acts of 1989.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. No expenditure of public funds pursuant to this act shall be made in violation of the provisions of Title VI of the Civil Rights Act of 1964, as codified in 42 United States Code 2000(d).

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 429**, as amended, passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 525 -- Public Defenders -- Establishes scale for compensation of full-time district public defenders based upon number of years of service. Amends TCA Title 8, Chapter 14 and Title 16, Chapter 2.

On motion, Senate Bill No. 525 was made to conform with **House Bill No. 76**.

On motion, House Bill No. 76, on same subject, was substituted for Senate Bill No. 525.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 76** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Mr. Speaker Wilder moved that **Senate Bill No. 532** be moved three places down on the calendar for today, which motion prevailed.

Senate Bill No. 1388 -- Home Improvement Contractors -- Prohibits unlicensed contractors from demolishing residential buildings. Amends TCA Title 4; Title 7; Title 13; Title 62 and Title 65.

On motion, Senate Bill No. 1388 was made to conform with **House Bill No. 110**.

On motion, House Bill No. 110, on same subject, was substituted for Senate Bill No. 1388.

On motion of Senator Cooper, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 110** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 1681 -- Taxes, Sales -- Reduces sales tax on food from 6 percent to 3 percent effective January 1, 2004. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 12-3-315, is amended by adding the following language as a new subsection (d):

(d) Notwithstanding the foregoing or any other law to the contrary, the commissioner shall permit with respect to contracts for telecommunications and information technology goods and services a limitation of liability of not less than two

(2) times the value of the contract provided that the limitation of liability shall not apply

to intentional torts, criminal acts, fraudulent conduct or acts or omissions that result in personal injuries or death. Provided however, if the commissioner determines that it is necessary to protect the interests of the state, the commissioner may petition the board of standards to approve contractor liability in excess of (2) times the value of the contract. If the board agrees with the commissioner, it may approve such a higher liability amount.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1681**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 2134 -- Safety -- Requires nursing homes and state university student housing to adopt fire safety standards as approved by the Department of Health; at a minimum such standards must address the use of water sprinklers or other fire safety and prevention devices or alarms. Amends TCA Title 49 and Title 68.

On motion, Senate Bill No. 2134 was made to conform with **House Bill No. 2249**.

On motion, House Bill No. 2249, on same subject, was substituted for Senate Bill No. 2134.

On motion of Senator Ford, Amendment No. 1 was withdrawn.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting Section 2, as amended, and by substituting instead the following language:

SECTION 2. This act shall take effect July 1, 2005, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 2249**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 2277 -- Taxes, Sales -- Exempts sales of motor vehicles to members of Tennessee National Guard on federal active military service during periods of hostilities from sales and use tax. Amends TCA Section 67-6-303.

On motion, Senate Bill No. 2277 was made to conform with **House Bill No. 2160**.

On motion, House Bill No. 2160, on same subject, was substituted for Senate Bill No. 2277.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2160** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Ford moved that **Senate Bill No. 532** be moved two places down on the calendar for today, which motion prevailed.

Senate Bill No. 2351 -- Taxes, Real Property -- Eliminates 30-day time period as POW to qualify as disabled veteran for certain property tax relief. Amends TCA Section 67-5-704.

On motion, Senate Bill No. 2351 was made to conform with **House Bill No. 2352**.

On motion, House Bill No. 2352, on same subject, was substituted for Senate Bill No. 2351.

Thereupon, **House Bill No. 2352** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 2429 -- Firefighters -- Raises per diem payment to members of the commission on firefighting personnel standards and education from \$50.00 to \$100 per day for assisting a local firefighting unit; removes \$300 yearly per member cap, and creates a new allowance of \$100 per diem payment plus travel costs for those attending a commission meeting. Amends TCA Title 4, Chapter 24.

On motion, Senate Bill No. 2429 was made to conform with **House Bill No. 2519**.

On motion, House Bill No. 2519, on same subject, was substituted for Senate Bill No. 2429.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 2 and substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 4-24-105(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) A travel and expense allowance, consistent with state travel policy, shall be paid from the member's home to the location of the firefighting unit, or meeting of the commission, and return.

On motion, Amendment No. 1 was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "one hundred dollars (\$100) per day" from the amendatory language of Section 1, and by substituting instead the language "fifty dollars (\$50) per day".

On motion, Amendment No. 2 was adopted.

On motion of Senator Henry, Amendment No. 3 was withdrawn.

Thereupon, **House Bill No. 2519**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Ford moved that **Senate Bill No. 532** be moved five places down on the calendar for today, which motion prevailed.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Haynes as Speaker pro tempore.

Senate Bill No. 2457 -- Hospitals and Health Care Facilities -- Establishes timetable and requirements for fire sprinklers and smoke detectors in nursing homes. Amends TCA Title 68, Chapter 11, Part 2.

On motion, Senate Bill No. 2457 was made to conform with **House Bill No. 2392**.

On motion, House Bill No. 2392, on same subject, was substituted for Senate Bill No. 2457.

On motion of Senator Ford, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2392** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--31.

A motion to reconsider was tabled.

Speaker pro tempore Haynes moved that **Senate Bill No. 3424** be moved three places down on the calendar for today, which motion prevailed.

Senator Cooper moved that **Senate Bill No. 2458** be moved ten places down on the calendar for today, which motion prevailed.

Senate Bill No. 2505 -- Insurance, Health, Accident -- Establishes a VolunteerCare Health Insurance Program as part of comprehensive statewide healthcare reform. Amends TCA Title 3; Title 4; Title 9; Title 33; Title 56; Title 68 and Title 71.

On motion, Senate Bill No. 2505 was made to conform with **House Bill No. 3005**.

On motion, House Bill No. 3005, on same subject, was substituted for Senate Bill No. 2505.

On motion of Senator Ford, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3005** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

Senate Bill No. 2520 -- TennCare -- Provides for \$50.00 personal needs allowance without affecting person's eligibility for low-income long-term nursing home care; funds through reduction in payments for items unrelated to quality of care. Amends TCA Title 71.

On motion, Senate Bill No. 2520 was made to conform with **House Bill No. 2350**.

On motion, House Bill No. 2350, on same subject, was substituted for Senate Bill No. 2520.

On motion of Senator Kilby, Amendment No. 1 was withdrawn.

Senator Kilby moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

In determining the amount of an eligible individual's income available for the cost of long-term nursing home care authorized under this part on or after January 1, 2005, a deduction shall be made from the person's total income in the amount of forty dollars (\$40.00) per month to be treated as a personal needs allowance within the meaning of applicable federal regulations.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Senator Kurita moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The Department of Health is directed to develop recommendations to protect nursing home residents from vendors and others who would seek to provide inappropriate or unneeded goods and services, or otherwise divert personal needs allowance funds for uses other than those meeting residents' personal needs.

The recommendations will be provided to the respective Health and Human Resources Committees of the general assembly by December 15, 2004.

On motion, Amendment No. 3 was adopted.

Thereupon, **House Bill No. 2350**, as amended, passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

Senate Bill No. 2606 -- Motor Vehicles -- Adds definitions to seat belt law; prohibits any passenger from riding anywhere in a motor vehicle other than in a passenger seat position; requires all passengers, and not just front seat passengers, to wear safety belts; directs \$20.00 of the proceeds of the fines from violations, rather than full amount, to the division of vocational rehabilitation; mandates that violators receive points on driving record; and adds to the list of circumstances excluded from the act. Amends TCA Title 55, Chapter 9, Part 6.

On motion, Senate Bill No. 2606 was made to conform with **House Bill No. 3104**.

On motion, House Bill No. 3104, on same subject, was substituted for Senate Bill No. 2606.

On motion of Senator Williams, Amendment No. 1 was withdrawn.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting from the bill, as amended by House Amendment No. 3, the language:

SECTION _____. Tennessee Code Annotated, Section 55-6-603(f), is amended by adding the following as a new, appropriately designated subdivision:

() No record of conviction of this subsection shall be used by any insurance company to adjust any insurance rate of such violator.

and by substituting instead the language:

SECTION _____. Tennessee Code Annotated, Section 55-6-603(f), is amended by adding the following as a new, appropriately designated subdivision:

() The Department of Safety shall not report any convictions under this section except for law enforcement or governmental purposes.

On motion, Amendment No. 2 was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new section to be appropriately designated:

SECTION ___. Any funds received by the State of Tennessee as a result of passage of this act shall be utilized first to make grants to local education agencies (LEAs) for the sole purpose of placing seat belts on school buses. LEAs shall make application to the Department of Education for such grants and the Commissioner of Finance and Administration shall transfer available funds to the Department of Education for the purpose of making such grants. The Commissioners of Education and Finance and Administration are authorized to promulgate any rules or regulations necessary for the implementation of this section.

Senator Williams moved Amendment No. 3 go to the table, which motion failed by the following vote:

Ayes	9
Noes	15

Senators voting aye were: Graves, Herron, Kurita, McLeary, McNally, Miller, Norris, Person and Williams--9.

Senators voting no were: Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Henry, Jackson, Ketron and Kyle--15.

On motion, Amendment No. 3 failed by the following vote:

Ayes	10
Noes	16

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Crutchfield, Ford, Fowler, Henry and Jackson--10.

Senators voting no were: Burks, Cooper, Graves, Harper, Haynes, Herron, Ketron, Kurita, McLeary, McNally, Miller, Norris, Person, Southerland, Trail and Williams--16.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding the following new section before the effective date section to be appropriately designated:

SECTION ___. Tennessee Code Annotated, Section 55-9-604, is amended by inserting after the words "failure to wear a safety belt" wherever they appear in subsection (a), the words "or receipt of a citation or warrant for arrest for failure to wear a safety belt".

On motion, Amendment No. 4 was adopted.

On motion of Senator Burchett, Amendment No. 5 was withdrawn.

On motion of Senator Ketron, Amendment No. 6 was withdrawn.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Graves as Speaker pro tempore.

Senator Cooper moved for the previous question on **House Bill No. 3104**, which motion prevailed by the following vote:

Ayes	24
Noes	4
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Clabough, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Trail and Williams--24.

Senators voting no were: Burchett, Burks, Crutchfield and Person--4.

Senator present and not voting was: Henry--1.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

Thereupon, **House Bill No. 3104**, as amended, passed its third and final consideration by the following vote:

Ayes	17
Noes	13
Present, not voting . . .	1

Senators voting aye were: Atchley, Burks, Dixon, Graves, Harper, Haynes, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail and Williams--17.

Senators voting no were: Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Henry, Jackson, Kilby, Miller and Southerland--13.

Senator present and not voting was: Ford--1.

A motion to reconsider was tabled.

Senate Bill No. 3424 -- Workers' Compensation -- Increases from \$2,000 to \$5,000 per incident the penalty imposed against an insurance company authorized to write workers' compensation insurance that fails to submit its modification factors (or rates) for each of its workers' compensation insureds to the Commissioner of Commerce and Insurance, when requested by the commissioner. Amends TCA Title 4; Title 9; Title 13; Title 16; Title 29; Title 40; Title 41; Title 48; Title 49; Title 50; Title 56; Title 61 and Title 65.

Senator Haynes declared Rule 13 on **Senate Bill No. 3424**.

Senator Miller declared Rule 13 on **Senate Bill No. 3424**.

Senator Trail declared Rule 13 on **Senate Bill No. 3424**.

Senator Norris declared Rule 13 on **Senate Bill No. 3424**.

Senator Ketron declared Rule 13 on **Senate Bill No. 3424**.

Senator Crutchfield declared Rule 13 on **Senate Bill No. 3424**.

On motion, Senate Bill No. 3424 was made to conform with **House Bill No. 3531**.

On motion, House Bill No. 3531, on same subject, was substituted for Senate Bill No. 3424.

On motion of Senator Crutchfield, Amendment No. 1 was withdrawn.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-204, shall be amended by adding the following as a new subsection to be appropriately designated:

(1) The Commissioner of Labor and Workforce Development, in consultation with the medical care and cost containment committee and the advisory council on workers' compensation, is authorized to establish by rule, in accordance with the provisions of Title 4, Chapter 5, a comprehensive medical fee schedule and a related system which includes, but is not limited to, procedures for review of charges, enforcement procedures and appeal hearings, to implement the fee schedule. In developing the rules the commissioner shall strive to assure the delivery of quality medical care in workers' compensation cases and access by injured workers to primary and specialist care while controlling prices and system costs. The medical care fee schedule shall be comprehensive in scope and shall address fees of physicians and surgeons, hospitals, prescription drugs, and ancillary services provided by other health care facilities and providers. The commissioner may consider any and all reimbursement systems and methodologies in developing the fee schedule.

(2) The commissioner is authorized to retain experts to assist in the development of the fee schedule and related system in accordance with the contracting rules of the Department of Finance and Administration.

(3) The commissioner shall file a copy of such proposed rules with the medical care and cost containment committee, established by § 50-6-125, and the workers' compensation advisory council, established by Section 50-6-121,

by December 1, 2004. The cost containment committee and the advisory council shall comment on the proposed rules within thirty (30) days of receiving the rules and shall promptly provide such comments to the commissioner and the special joint committee of the general assembly on workers' compensation. The special joint committee may recommend appropriate legislative action to the general assembly.

(4) The commissioner shall file the rules proposed to implement the provisions of this section with the Clerk of the Senate, the Clerk of the House of Representatives, the House Consumer and Employee Affairs Committee and the Senate Commerce, Labor and Agriculture Committee by February 15, 2005.

(5) The rules required by this subsection shall take effect on July 1, 2005. The commissioner is authorized to use public necessity rules under Section 4-5-209(a)(4) or emergency rules under Section 4-5-208, as appropriate in order to have such rules in effect on July 1, 2005.

(6) The commissioner, in consultation with the medical care and cost containment committee and the advisory council on workers' compensation, shall review the fee schedules adopted pursuant to this section on an annual basis and when appropriate the commissioner shall revise the fee schedules as necessary. It is the intent of the general assembly that this annual review consider, among other factors, the medical consumer price index.

(7) The comprehensive medical fee schedule adopted pursuant to this subsection is not intended to prohibit an employer, trust or pool, or insurer from negotiating lower fees in its own medical fee agreements.

SECTION 2. Tennessee Code Annotated, Section 50-6-204(a)(4)(A), is amended by deleting the words "prevail for similar treatment in the community where the injured employee resides" and substitute in their place the words "are established in the applicable medical fee schedule adopted pursuant to this section".

SECTION 3. Tennessee Code Annotated, Section 50-6-206(a), is amended by designating the existing language as subdivision (a)(1) and by adding the following as a new subdivision (a)(2):

(2) Notwithstanding any other provision of this chapter to the contrary, the parties shall not be permitted to compromise and settle the issue of future medical benefits to which an employee is entitled pursuant to this chapter except in accordance with the following:

(A) If a workers' compensation claim is settled by the parties, the parties shall not agree to compromise and settle the issue of future medical benefits for a period of three (3) years from the date on which the settlement is approved. No settlement agreement shall be approved that contains any language inconsistent with this subdivision.

(B) After the expiration of the three (3) year period, if the parties mutually agree to a compromise and settlement on the issue of future medical

benefits, the parties shall not be required to request a benefit review conference. Instead, the parties shall submit such an agreement to the proper court for approval, pursuant to § 50-6-206(a) or to the Commissioner of Labor and Workforce Development or his designee pursuant to § 50-6-206(c).

(C) Notwithstanding any other provision of this chapter or this subdivision, an employee who is determined to be permanently totally disabled shall not be allowed to compromise and settle his/her rights to future medical benefits.

(D) Nothing in this section shall be construed to prohibit the parties from compromising and settling at any time the issue of future medical benefits on any schedule member injury not subject to § 50-6-241(d)(1)(A).

SECTION 4. Tennessee Code Annotated, Section 50-6-206(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Notwithstanding any other provision of this section, whenever there is a dispute between the parties as to whether or not a claim is compensable, or a dispute as to the amount of compensation due, the parties may settle such matter without regard to whether the employee is receiving substantially the benefits provided by the workers' compensation law; provided, however, such settlement paid to the employee shall not exceed fifty (50) times the minimum weekly benefit rate as of the date of the claimed injury. If the parties settle such matter pursuant to this subdivision, the employee shall be entitled to no future medical benefits and no settlement agreement between the parties shall be approved by either the court or the commissioner, or the commissioner's designee, if the settlement agreement contains an amount of money designated or allocated for future medical benefits. The settlement must be determined by the court or commissioner, or the commissioner's designee, to be in the best interest of the employee.

SECTION 5. Tennessee Code Annotated, Section 50-6-204(a)(4), is amended by adding the following as a new subdivision (F):

The employer shall provide the applicable panel of physicians to the employee in writing on a form prescribed by the division, and the employee shall document in writing the physician the employee has selected and the employee shall sign and date the prescribed form. The employer shall provide a copy of the completed form to the employee and shall maintain a copy of the completed form in the records of the employer and shall produce a copy of the completed form upon request by the division.

SECTION 6. Tennessee Code Annotated, Section 50-6-205(b)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(b)(3)(A) In addition to any other penalty provided by law, if an employer, trust or pool, or an employer's insurer fails to pay, or untimely pays, temporary disability benefits within twenty (20) days after the employer has knowledge of any disability that would qualify for benefits under this chapter, a workers' compensation specialist shall have the authority to assess against the employer, trust or pool, or the employer's insurer a civil penalty in addition to

the temporary disability benefits which are due to the employee. Said penalty, if assessed, shall be in an amount equal to twenty-five percent (25%) of such temporary disability benefits that were not paid in accordance with the provisions of this subsection. Said penalty may be assessed as to all temporary disability benefits that are determined not paid in compliance with this subsection.

(B) Prior to the assessment of any civil penalty, the specialist shall issue a written request to the employer or insurance carrier to provide documentation as to why the civil penalty should not be assessed.

(C) If the specialist determines the employer or insurer was not in compliance with this subsection, the specialist shall issue a written order that assesses the penalty in a specific dollar amount to be paid directly to the employee. If the employer or insurer fails to comply with the order within fifteen (15) calendar days of that order becoming final, the employer or insurer shall be subject to penalties as set forth in Section 50-6-238(d).

(D) In any civil action filed pursuant to this chapter, the court shall have the authority to assess penalties as provided in this subdivision (b)(3).

SECTION 7. Tennessee Code Annotated, Section 50-6-238(a), is amended by deleting that subsection in its entirety and by substituting instead the following:

(a)(1) With respect to the determination of whether to order the payment of temporary disability or medical benefits, a workers' compensation specialist shall not be an advocate for either party, but shall decide such issues solely on the basis of the information available to such specialist without favor or presumption for or against either party.

(2) If, in light of available information, a workers' compensation specialist determines that it is appropriate to order the payment of temporary disability benefits to an employee, then a workers' compensation specialist may order the initiation, continuation or reinstitution of such benefits by an employer or the employers' workers' compensation insurer.

(3) If, in light of available information, a workers' compensation specialist determines that it is appropriate to order the employer or insurer to provide medical benefits, the specialist's authority shall include, but not be limited to, the authority to order specific medical treatment recommended by the treating physician, and the authority to require the employer to provide the appropriate panel of physicians to the employee, including a panel of appropriate specialists. The workers' compensation specialist shall also have the authority to enforce the provision of the panel of physicians as required under Section 50-6-204(a)(4).

(4) Any benefits ordered by a workers' compensation specialist as provided above shall be ordered on a form prescribed by the Commissioner of Labor and Workforce Development.

(5) If under all of the relevant circumstances the specialist deems it to be appropriate, the specialist shall order the retroactive payment of benefits.

SECTION 8. Tennessee Code Annotated, Section 50-6-118(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) Bad faith denial of claims;

SECTION 9. Tennessee Code Annotated, Section 50-6-241(a)(1), is amended by deleting the words "on or after August 1, 1992" and substituting instead the words "on or after August 1, 1992, and prior to July 1, 2004".

SECTION 10. Tennessee Code Annotated, Section 50-6-241(b), is amended by deleting the words "on or after August 1, 1992" and substituting instead the words "on or after August 1, 1992, and prior to July 1, 2004".

SECTION 11. Tennessee Code Annotated, Section 50-6-241, is amended by adding the following as new subsection (d):

(d)(1)(A) For injuries occurring on or after July 1, 2004, in cases in which an injured employee is eligible to receive any permanent partial disability benefits either for body as a whole or for schedule member injuries, except schedule member injuries specified in § 50-6-207(3)(A)(ii)(a)-(f), (n), (q), and (r), and the pre-injury employer returns the employee to employment at a wage equal to or greater than the wage the employee was receiving at the time of the injury, the maximum permanent partial disability benefits that the employee may receive is one and one-half (1½) times the medical impairment rating determined pursuant to the provisions of Tennessee Code Annotated, § 50-6-204(d)(3). In making such determinations, the court shall consider all pertinent factors, including lay and expert testimony, the employee's age, education, skills and training, local job opportunities, and capacity to work at types of employment available in claimant's disabled condition.

(B)(i) If an injured employee receives benefits for body as a whole injuries pursuant to subdivision (d)(1)(A) and the employee is subsequently no longer employed by the pre-injury employer at the wage specified in subdivision (d)(1)(A) within four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, the employee may seek reconsideration of the permanent partial disability benefits.

(ii) If an injured employee receives benefits for schedule member injuries pursuant to subdivision (d)(1)(A), and the employee is subsequently no longer employed by the pre-injury employer at the wage specified in subdivision (d)(1)(A), the employee may seek reconsideration of the permanent partial disability benefits. The right to seek such reconsideration shall

extend for the number of weeks for which the employee was eligible to receive benefits under Tennessee Code Annotated, Section 50-6-207, beginning with the day the employee returned to work for the pre-injury employer.

(iii) Notwithstanding the provisions of this subdivision (d)(1)(B), under no circumstances shall an employee be entitled to reconsideration when the loss of employment is due to either:

(a) the employee's voluntary resignation or retirement, provided such resignation or retirement does not result from the work-related disability which is the subject of such reconsideration; or

(b) the employee's misconduct connected with his employment.

(iv) To seek reconsideration pursuant to subdivision (B)(i) or (B)(ii), the employee shall first request a benefit review conference within one (1) year of the date on which the employee ceased to be employed by the pre-injury employer. If the parties are not able to reach an agreement regarding additional permanent partial disability benefits at the benefit review conference, the employee shall be entitled to file a complaint seeking reconsideration in a court of competent jurisdiction within ninety (90) days of the date of the benefit review conference. Any settlement or award of additional permanent partial disability benefits pursuant to reconsideration shall give the employer credit for prior permanent partial disability benefits paid to the employee. Any new settlement or award regarding additional permanent partial disability benefits remains subject to the maximum established in subdivision (d)(2) and shall be based on the medical impairment rating which was the basis of the previous settlement or award.

(v) Notwithstanding any other provision of law to the contrary, an employee shall not be permitted to waive or forfeit, and the parties shall not be permitted to compromise and settle, the employee's rights to reconsideration pursuant to this section.

(2)(A) For injuries arising on or after July 1, 2004, in cases in which the pre-injury employer did not return the injured employee to employment at a wage equal to or greater than the wage the employee was receiving at the time of the injury, the maximum permanent partial disability benefits that the employee may receive for body as a whole and schedule member injuries subject to subdivision (d)(1)(A) may not exceed six (6) times the medical impairment rating determined pursuant to the provisions of Tennessee Code Annotated, § 50-6-204(d)(3). The maximum permanent partial disability benefits to which

the employee is entitled shall be computed utilizing the appropriate maximum number of weeks as set forth in Tennessee Code Annotated, §50-6-207, for the type of injury sustained by the employee. In making such determinations, the court shall consider all pertinent factors, including lay and expert testimony, the employee's age, education, skills and training, local job opportunities, and capacity to work at types of employment available in claimant's disabled condition.

(B) If the court awards a permanent partial disability percentage that equals or exceeds five (5) times the medical impairment rating, the court shall include specific findings of fact in the order that detail the reasons for awarding the maximum permanent partial disability.

SECTION 12. Tennessee Code Annotated, Section 50-6-242, is amended by designating the existing language as subsection (a), by deleting the word "Notwithstanding", and replacing it with the phrase "For injuries that occur on or after August 1, 1992, and prior to July 1, 2004, notwithstanding", and by adding a new subsection (b) as follows:

For those injuries that occur on or after July 1, 2004, and notwithstanding any provision of this chapter to the contrary and in appropriate cases where the employee is eligible to receive the maximum permanent partial disability award under Tennessee Code Annotated, §§ 50-6-241(d)(1)(B) or (d)(2), the employee may receive disability benefits not to exceed the appropriate maximum number of weeks as set forth in Tennessee Code Annotated, § 50-6-207, for the type of injury sustained by the employee. In such cases, the court or the workers' compensation specialist shall make specific documented findings, supported by clear and convincing evidence, that as of the date of the award or settlement, at least three of the following facts concerning the employee are true:

- (1) The employee lacks a high school diploma or general equivalency diploma or the employee cannot read or write on a grade eight (8) level;
- (2) The employee is fifty-five (55) years of age or older;
- (3) The employee has no reasonably transferable job skills from prior vocational background and training; and
- (4) The employee has no reasonable employment opportunities available locally considering the employee's permanent medical condition.

SECTION 13. Tennessee Code Annotated, Section 50-6-204(d)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(d)(3)(A) To provide uniformity and fairness for all parties, in determining the degree of anatomical impairment sustained by the employee, a physician, chiropractor, or medical practitioner who is permitted to give expert testimony in a Tennessee court of law and who has provided medical treatment to an employee or who has examined and/or evaluated an employee seeking workers' compensation benefits shall utilize the applicable edition of the AMA Guides as established in Tennessee Code Annotated, § 50-6-102, or in cases

not covered by the AMA Guides an impairment rating by any appropriate method used and accepted by the medical community.

(B) No anatomical impairment or impairment rating, whether contained in a medical record, medical report, including a medical report pursuant to Tennessee Code Annotated, § 50-6-235(c), deposition or oral expert opinion testimony shall be accepted during a benefit review conference or be admissible into evidence at the trial of a workers' compensation matter unless the impairment is based on the applicable edition of the AMA Guides or in cases not covered by the AMA Guides an impairment rating by any appropriate method used and accepted by the medical community.

(C) The administrator of the division of workers' compensation shall determine the date on which the most recent edition of the AMA Guides became effective for purposes of this subdivision and the administrator shall maintain the full title of the most recent edition and the date it became effective on the division's Web site.

SECTION 14. Tennessee Code Annotated, Section 50-6-203, is amended by deleting the section in its entirety and substituting instead the following:

(a) No claim for compensation under the Workers' Compensation Law shall be filed with a court having jurisdiction to hear workers' compensation matters, as provided in Tennessee Code Annotated, § 50-6-225, until the parties have exhausted the benefit review conference process provided by the division of workers' compensation. Notwithstanding the provisions of this section, if the parties have mutually agreed to a compromise and settlement of a claim for workers' compensation, the parties shall not be required to exhaust the benefit review conference process before filing a claim and submitting the compromise and settlement to the appropriate court for approval pursuant to Tennessee Code Annotated, Section 50-6-206(a), or to the Commissioner of Labor and Workforce Development or his designee pursuant to § 50-6-206(c). If the settlement is not approved, the parties shall then exhaust the benefit review conference process.

(b)(1) In those instances where the employer has not voluntarily paid workers' compensation benefits to or on behalf of the employee, the right to compensation under the Workers' Compensation Law shall be forever barred, unless the notice required by Tennessee Code Annotated, § 50-6-202, is given to the employer and a benefit review conference is requested on a form prescribed by the commissioner and filed with the division within one (1) year after the accident resulting in injury.

(2) In those instances where the employer has paid workers' compensation benefits, either voluntarily or as a result of an order to do so, within one (1) year following the accident resulting in injury, the right to compensation is forever barred unless a form prescribed by the commissioner requesting a benefit review conference is filed with the division within one (1) year from the latter of the date of the last authorized treatment or the time the employer ceased to make payments of compensation to or on behalf of the employee.

(c) For purposes of this section, the issuing date of the last voluntary payment of compensation by the employer, not the date of its receipt, shall constitute the time the employer ceased making payments and an employer or its insurer shall provide such date on request.

(d) In case of physical or mental incapacity, other than minority, of the injured person or such injured person's dependents to perform or cause to be performed any action required within the time specified in this section then the period of limitation in such case shall be extended for one (1) year from the date when such incapacity ceases.

(e)(1) Unless a claim for death benefits is settled or voluntarily paid, the dependent(s) of a deceased employee shall request a benefit review conference within one (1) year of the date of death of the employee.

(2) In the event the deceased employee was a native of a foreign country and leaves no known dependent(s) within the United States, it shall be the duty of the commissioner to give written notice forthwith of the death to the duly accredited consular officer of the country of which the beneficiaries are citizens.

(f) In the event the employee fails to appear and participate in the benefit review conference as scheduled by the division, the commissioner shall have the authority to dismiss the employee's claim by sending a copy of the order of dismissal by certified mail with return receipt requested, signed by the employee, to the employee's last known address. The order of dismissal shall become final and the claim shall be forever barred unless the employee contacts the department to schedule a benefit review conference and attends a benefit review conference within sixty (60) days of the date the order of dismissal is signed by the commissioner or the commissioner's designee.

(g)(1) If the parties are not able to reach a compromise and settlement of all issues at the benefit review conference held pursuant to this section, the parties shall have ninety (90) days, after the date a written agreement or a written report regarding the conference is filed with the commissioner pursuant to Tennessee Code Annotated, § 50-6-240, to file a complaint with a court of competent jurisdiction as provided in Tennessee Code Annotated, § 50-6-225. The division of workers' compensation shall maintain an official record of the date on which a written agreement or written report is filed with the commissioner and supply the information to the parties or the appropriate court upon request of either the parties or the court.

(2) Notwithstanding the provisions of this subsection, in no event shall an employee have less than the latter of:

(i) One (1) year from the date of the accident resulting in injury;
or

(ii) One (1) year from the latter of the date of the last authorized treatment or the time the employer ceased to make payments of compensation to or on behalf of the employee.

in which to file a complaint with a court of competent jurisdiction as provided in Section 50-6-225.

(h) In the event a workers' compensation's complaint is filed with a court of competent jurisdiction pursuant to this section by the employer or the employer's agent and the employer or agent files notice of non-suit of the action, either party shall have ninety (90) days from the date of the order of dismissal to institute an action for recovery of benefits under this chapter.

(i) Proceedings to obtain a judgment in the case of the failure of the employer for thirty (30) days to pay any compensation due under any settlement or determination shall be filed within one (1) year after such default.

SECTION 15. Tennessee Code Annotated, Section 50-6-224, is amended by adding the following as subsection five (5):

(5) This section applies only to injuries that arise on or before December 31, 2004, and shall have no applicability to injuries that arise on or after January 1, 2005.

SECTION 16. Tennessee Code Annotated, Section 50-6-225(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a)(1) Notwithstanding any provisions of this chapter to the contrary, in case of a dispute over or failure to agree upon compensation under the Workers' Compensation Law between the employer and employee or the dependent(s) of the employee, the parties shall first submit the dispute to the benefit review conference process provided by the division of workers' compensation.

(2) In the event the parties are unable to reach an agreement at the benefit review conference as to all issues related to the claim, either party may file a civil action as provided in Tennessee Code Annotated, § 50-6-203, in the circuit or chancery court in the county in which the employee resides or in which the alleged injury occurred. In instances where the employee resides outside the State of Tennessee and where the injury occurs outside the State of Tennessee, the complaint shall be filed in any county where the employer maintains an office.

(3) Neither party in a civil action filed pursuant to this section shall have the right to demand a jury.

SECTION 17. Tennessee Code Annotated, Section 50-6-227, is amended by deleting subsection (a) and substituting instead the following:

(a)(1)(A) In the event compensation is payable due to the death of an employee under the provisions of the Workers' Compensation Law and the decedent leaves alien dependent(s) residing outside of the United States, a workers' compensation specialist is authorized to conduct a benefit review conference to attempt to resolve the issues provided a representative(s) of the employer and a duly authorized representative(s) of the consul or other representative of the foreign country wherein the dependent(s) resides are

present. In the event a settlement agreement is reached, the commissioner, or commissioner's designee, is authorized to approve the settlement, and the order of the commissioner, or the commissioner's designee, shall be entitled to the same standing as a judgment of a court of record for all purposes. In the event the parties are unable to reach an agreement at the benefit review conference, the employer or employee's representative may file a complaint in the circuit or chancery court that would have jurisdiction of the matter pursuant to Tennessee Code Annotated, § 50-6-225, requesting the court to hear and determine the matter.

(B) The commissioner, or commissioner's designee, or the court shall order payment of any compensation due from the employer to be made to the duly accredited consular officer of the country of which the beneficiaries are citizens. Such consular officer or such consular officer's representative shall be fully authorized and empowered by this law to settle all claims for compensation and to receive such compensation for distribution to the persons entitled thereto.

(2) The distribution of such funds in such case shall be made only upon the order of the commissioner, or commissioner's designee, or the court that heard the matter. If required to do so by the commissioner, or the commissioner's designee, or the court, such consular officer or such consular officer's representative shall execute a good and sufficient bond to be approved by the commissioner, or commissioner's designee, or the court, conditioned upon the faithful accounting of the moneys so received by such consular officer or such consular officer's representative, and before such bond is discharged a verified statement of receipts and disbursements of such moneys shall be made and filed with the commissioner or the court, as appropriate.

SECTION 18. Tennessee Code Annotated, Section 50-6-236, is amended by deleting subsection (h) in its entirety and substituting instead the following:

(h) A benefit review conference shall be requested at any time within the limitation period(s) provided in Tennessee Code Annotated, §§ 50-6-203 or 306. A workers' compensation specialist shall have the authority to continue or reschedule a benefit review conference. A workers' compensation specialist shall also have the authority to cancel or waive a benefit review conference, solely within the discretion of that workers' compensation specialist.

SECTION 19. Tennessee Code Annotated, Section 50-6-236(l), is amended by deleting the second, third, fourth and fifth grammatical sentences in their entirety and substituting instead the following: "The program of continuing education shall include, at a minimum, seven (7) hours of continuing education each fiscal year. The minimum seven (7) hours of education shall be specifically in the area of Tennessee Workers' Compensation Law and shall be in addition to any mediation training provided to the specialists. Three (3) of the seven (7) hours of education shall be approved by the Tennessee commission on continuing legal education and specialization. In addition to the annual seven (7) hour continuing education requirement, each specialist hired by the Department of Labor and

Workforce Development shall be provided, within one (1) month of the date of hire, formal training and education which shall include training on the department's workers' compensation system, the Tennessee Workers' Compensation statutes and caselaw, and the rules and regulations of the division of workers' compensation."

SECTION 20. Tennessee Code Annotated, Section 50-6-239, is amended by deleting the section in its entirety and substituting instead the following:

(a) In all cases in which the parties have any issues in dispute, whether the issues are related to medical benefits, temporary disability benefits, or issues related to the final resolution of a matter, the parties shall request the department to hold a benefit review conference.

(b) The parties to a dispute shall attend and participate in a benefit review conference that addresses all issues related to a final resolution of the matter as a condition precedent to filing a complaint with a court of competent jurisdiction.

(c) The division shall have the authority to schedule a date specific for the benefit review conference. The division shall endeavor to work with the parties or their representatives to schedule a date convenient to the parties, and the parties shall cooperate in scheduling the conference. However, in the event the parties cannot agree to a date within forty-five (45) days of the date a benefit review conference is requested or the date on which the employee reaches maximum medical improvement, whichever date is later, the division shall schedule the conference on a specific date and give the parties written notice of the date and the parties shall attend the benefit review conference on the date scheduled by the division. If the division fails to conduct a benefit review conference within sixty (60) days of receipt of a request for a benefit review conference, the parties may agree to hire a private Rule 31 mediator to conduct the mediation. Any agreement reached through private Rule 31 mediation must be approved by a court or the department in accordance with Section 50-6-206.

(d) The commissioner is authorized to promulgate rules concerning all aspects of the administrative process related to benefit review conferences pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 21. Tennessee Code Annotated, Section 50-6-306, is amended by deleting the section in its entirety and substituting instead the following:

(a) The right to compensation for occupational disease or a claim for death benefits as a result of an occupational disease shall be forever barred unless a claim is initiated pursuant to Tennessee Code Annotated, § 50-6-203; provided, however, the applicable time limitation period(s) shall commence as of the date of the beginning of the incapacity for work resulting from an occupational disease or upon the date death results from the occupational disease. Provided, however, if upon the date of the death of the employee the employee's claim has become barred, the claim of the employee's dependent(s) shall likewise be barred, and in such case the claim shall be barred whether or not the employer gives the notice required by § 50-6-224(2).

(b) A claim for benefits or death due to coal worker's pneumoconiosis shall be timely filed if such claim is instituted pursuant to Tennessee Code Annotated, § 50-6-203, within three (3) years of the discovery of total disability or the date of such death as the case may be.

SECTION 22. Tennessee Code Annotated, Section 50-6-102(14)(A)(viii), is amended by deleting the phrase "on or after July 1, 1997" and substituting instead the phrase "on or after July 1, 1997, through June 30, 2004".

SECTION 23. Tennessee Code Annotated, Section 50-6-102(14)(A), is amended by adding the following as appropriately designated subdivisions:

(ix) For injuries occurring on or after July 1, 2004, the maximum weekly benefit for permanent disability benefits shall be sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage up to one hundred percent (100%) of the state's average weekly wage as determined by the department.

(x)(a) For injuries occurring on or after July 1, 2004, through June 30, 2005, the maximum weekly benefit for temporary disability benefits shall be sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage up to one hundred five percent (105%) of the state's average weekly wage as determined by the department.

(b) For injuries occurring on or after July 1, 2005, the maximum weekly benefit for temporary disability benefits shall be sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage up to one hundred ten percent (110%) of the state's average weekly wage as determined by the department.

SECTION 24. Tennessee Code Annotated, Section 50-6-204(d)(5), is amended by deleting it in its entirety and substituting instead the following:

(d)(5) When a dispute as to the degree of medical impairment exists, either party may request an independent medical examiner from the commissioner's registry. If the parties are unable to mutually agree on the selection of an independent medical examiner from the commissioner's registry, it shall be the responsibility of the employer to provide a written request to the commissioner for assignment of an independent medical examiner, with a copy of the notice provided to the other party. Upon receipt of such written request, the commissioner shall provide the names of three (3) independent medical examiners chosen at random from the registry. The commissioner shall immediately notify the parties by facsimile or email when the list of independent medical examiners has been assigned to a matter, but in any event the notification shall be made within five (5) business days of the date of the request. The employer may strike one (1) name from the list, with such rejection made and communicated to the other party by facsimile or email not later than the third business day after the date on which notification of the list is provided. The employee shall select a physician to perform the independent medical examination from the remaining physicians on the list. All costs and

fees for an independent medical examination and report made pursuant to this subsection shall be paid by the employer. The written opinion as to the permanent impairment rating given by the independent medical examiner pursuant to this subsection shall be presumed to be the accurate impairment rating; provided, however, this presumption may be rebutted by clear and convincing evidence to the contrary.

(6) The Commissioner of Labor and Workforce Development shall establish by rule, in accordance with the provisions of Title 4, Chapter 5, an independent medical examiners registry. The commissioner shall establish qualifications for the independent medical examiners, including continuing education and peer review requirements, with the advice of the Tennessee Medical Association and the Workers' Compensation Advisory Council. The rules established shall include, but not be limited to, qualifications and procedures for submission of an application for inclusion on the registry; procedures for the review and maintenance of the registry and procedures for assignment that ensures that the composition of such panels is random. The rules required by this subsection shall take effect on July 1, 2005. The commissioner is authorized to use public necessity rules under Section 4-5-209(a)(4) or emergency rules under Section 4-5-208, as appropriate in order to have such rules in effect no later than July 1, 2005.

SECTION 25. Tennessee Code Annotated, Section 50-6-208(b)(1) is amended by adding the following language as subpart (D):

The provisions of this subdivision (b)(1) shall apply only to injuries that arise on or before June 30, 2005, and shall have no applicability to injuries that arise on or after July 1, 2005.

and is further amended by adding the following language at the end of § 50-6-208(b)(2)(A):

The provisions of this subpart (b)(2)(A) shall apply only to injuries that arise on or before June 30, 2005, and shall have no applicability to injuries that arise on or after July 1, 2005.

SECTION 26. Tennessee Code Annotated, Section 50-6-121(c), is amended by adding the following language at the end of the subsection:

The annual report shall include a summary of significant court decisions relating to workers' compensation, including an explanation of their impact on existing policy, and a summary of all permanency awards broken down by judicial district.

SECTION 27. Tennessee Code Annotated, Section 50-6-121, is amended by adding the following as new subsections to be appropriately designated:

() Whenever any bill is introduced in the general assembly proposing to amend this chapter or to make any change in the workers' compensation law, or to make any change in the law which may have a financial or other substantive impact on the administration of the workers' compensation law, the standing committee to which the bill is referred may refer the bill to the council. The council's review of bills

relating to workers' compensation should include, but not be limited to, bills that propose to amend Title 50, Chapters 3, 6, 7, and 9, and Title 56, Chapters 5 and 47. All bills referred to the council shall be reported back to the standing committee to which they were assigned as quickly as reasonably possible. Notwithstanding the absence of a report from the council, the standing committee is free to consider the bill at any time.

SECTION 28. Tennessee Code Annotated, Section 50-6-123(b), is amended by deleting the language beginning at the start of such subsection through the colon and substituting in its place the following:

Employers may, at their own expense, utilize case management, and if utilized, the employee shall cooperate with the case management, and such case management shall include, but not be limited to:

SECTION 29. Tennessee Code Annotated, Section 50-6-123(e), is amended by deleting the subsection in its entirety.

SECTION 30. Tennessee Code Annotated, Section 50-6-121, is amended by adding the following as appropriately designated subsections:

() The council shall review the provisions of Section 50-6-204(a)(4), particularly as they relate to the restrictions contained therein on the injured employee's choice of treating physician, and on or before December 1, 2004, shall make recommendations to the governor and the Speakers of the House and Senate concerning any proposed changes to that subsection.

() The council shall review the definition of "injury" and "personal injury" as defined in Section 50-6-102(12), and on or before December 1, 2004, shall make recommendations to the governor and the Speakers of the House and Senate concerning any proposed revisions to that definition.

() The council shall review the issue of replacing the existing system for adjudicating workers' compensation claims with an administrative commission or review board. On or before December 1, 2004, the council shall make recommendations to the governor and the general assembly concerning any proposed changes to the existing system.

SECTION 31. Tennessee Code Annotated, Title 50, Chapter 6, Part 1, is amended by adding the following language as a new, appropriately designated section:

50-6-____. It shall be the duty of the administrative office of the courts, in consultation with the advisory council on workers' compensation, to develop and provide appropriate continuing education programs on topics related to workers' compensation at each annual meeting. Such continuing education shall include both generalized applications of the provisions of this chapter and the use of the AMA Guides. The program shall also address any specific variances in the application of the provisions of this chapter throughout the state.

SECTION 32. Tennessee Code Annotated, Section 50-6-102, is amended by adding the following language as a new item to be appropriately designated:

() "AMA Guides" means the most recent edition of the American Medical Association Guides to the Evaluation of Permanent Impairment (American Medical Association). In the event of a release of a new edition of the publication in a given year, the new edition shall be deemed to be the most recent edition on January 1 of the year following its release. The edition that is in effect on the date the employee is injured is the edition that shall be applicable to the claim.

SECTION 33. Tennessee Code Annotated, Section 50-6-125, is amended in subsection (b), subdivision (1), by deleting the language "eight (8)" and substituting instead the language "thirteen (13)" and is further amended in subpart (B) by deleting the language "One (1) member" and substituting instead the language "Two (2) members" and by deleting the language "Tennessee Association of Business" and substituting instead the language "Tennessee Chamber of Commerce and Industry" and is further amended in subpart (D) by deleting the language "Two (2)" and substituting instead the language "Three (3)" and is further amended in subpart (E) by deleting such subpart in its entirety and substituting instead the following language:

(E) Three (3) members shall represent hospitals and shall be appointed from a list of nominees submitted by the Tennessee Hospital Association; and

(F) One (1) member shall be a pharmacist and shall be appointed from a list submitted by the Tennessee Pharmacists Association.

and is further amended by deleting the language following the colon in the second sentence in subsection (c) of § 50-6-125, and substituting instead the following language:

one (1) of the physicians, the pharmacist, one (1) representative of employees, and one (1) of the representatives of hospitals shall be appointed to an initial term of four (4) years; one (1) of the physicians, one (1) of the representatives of employers, and one (1) of the representatives of hospitals shall be appointed to an initial term of three (3) years; one (1) of the physicians, one (1) of the representatives of employers, and one (1) of the representatives of employees shall be appointed to an initial term of two (2) years; and one (1) of the representatives of employers, one (1) of the representatives of employees, and one (1) of the representatives of hospitals shall be appointed to an initial term of one (1) year.

and is further amended by deleting subsection (e) and subsection (f) in their entirety.

SECTION 34. Tennessee Code Annotated, Section 50-6-405(b)(1), is amended by deleting the subsection and subdivision in their entirety and by substituting instead the following:

(b) If the employer elects to proceed under subdivision (a)(2), the Commissioner of Commerce and Insurance shall require the applicant to pay a nonrefundable application fee of five hundred dollars (\$500) or in an amount the commissioner shall promulgate by rule. The Commissioner of Commerce and Insurance shall require the applicant to file and maintain with the Department of Commerce and Insurance the following:

(1) Security, in an amount to be determined by the Commissioner of Commerce and Insurance, but not less than five hundred thousand dollars

(\$500,000), in any of the following forms, as specified herein: negotiable securities; a surety bond; a certificate of deposit; or a letter of credit.

(A) The security, or a contract between the self-insured employer, a depository institution and the Commissioner of Commerce and Insurance evidencing the security held in said depository institution for purposes of compliance with this section, shall be held by the Commissioner of Commerce and Insurance and shall be conditioned to run solely and directly for the benefit of the employees of the self-insured employer. Any legal actions to enforce the payment of the security being held for purposes of compliance with this section shall be brought by the Commissioner of Commerce and Insurance for the benefit of the employees of the self-insured employer.

(B) The security held pursuant to this section may be used for the payment of any and all fees or costs required to administer the disbursement of the proceeds to or for the benefit of the employees.

(C) The venue for any suit filed by the Commissioner of Commerce and Insurance under this provision shall be in Davidson County.

(D) All negotiable securities filed under this section shall be the classes of securities listed below and shall be subject to the following requirements:

(i) Obligations issued, assumed or guaranteed by any business entity created or existing under the laws of the United States or any state thereof; provided, that the obligation is or the issuing, assuming or guaranteeing business entities' long term obligations are rated one (1) of the four (4) highest grades by any of the nationally recognized statistical rating organizations recognized by the securities valuation office of the National Association of Insurance Commissioners or one (1), two (2) or three (3) by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Obligations, not in default as to principal or interest, which are valid and legally authorized obligations issued, assumed or guaranteed by the United States, or by any state thereof, or by any county, city, town, village, municipality or district therein, or by any political subdivision thereof, or by any civil division or public instrumentality of one (1) or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such obligations are payable, as to both principal and interest, from taxes levied, or by such law required to be levied, upon all taxable property or all taxable income within the jurisdiction of such governmental unit or from adequate special revenues pledged or otherwise appropriated or by such law required to be provided for the purpose of such payment, but

not including any obligations payable solely out of special assessments on properties benefited by local improvements;

(iii) Before accepting any negotiable security for purposes of this section, the Commissioner of Commerce and Insurance shall determine whether such negotiable security is suitable for such use. The commissioner shall consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with such negotiable security.

(E) All bonds filed under this provision of law shall be issued by an insurer authorized to do business in the State of Tennessee and the insurer shall maintain at least an A rating as determined by the A.M. Best Company. Any bond issued by an insurer for purposes of this section shall contain a provision requiring the insurer to give the Commissioner of Commerce and Insurance ninety (90) days written notice of its intention to cancel such bond. The insurer shall not cancel such bond until written notice is given to the Commissioner of Commerce and Insurance and a copy of such notice is given to the employer.

(F) An insurer that cancels a bond issued pursuant to this section before the date specified in the written notice set forth in subsection (E) above shall be liable to the employees of the self-insured employer for any lawful workers' compensation claims that were incurred on or before the date the bond was cancelled in amounts up to the maximum penal sum of the bond.

(G) All certificates of deposit filed under this provision must be held in a depository institution that is located in the State of Tennessee and either federally chartered or state chartered.

(i) If a certificate of deposit is filed with the Commissioner of Commerce and Insurance, an agreement shall be entered into between the Commissioner of Commerce and Insurance, the depository institution and the self-insured employer pledging the certificate of deposit for the benefit of the self-insured's employees. The agreement shall contain a provision executed between the depository institution and the self-insured employer requiring the self-insured employer and the depository institution to give at least ninety (90) days written notice of their intention not to renew the certificate of deposit and a provision that, unless written notice not to renew is given to the Commissioner of Commerce and Insurance by the self-insured employer and depository institution within ninety (90) days, the certificate of deposit shall be automatically renewed. The self-insured employer shall submit to the Commissioner of Commerce and Insurance, on an annual basis, the status of such certificate of deposit, including evidence of its renewal.

(ii) If the self-insured employer and depository institution fail to comply with Tennessee Code Annotated, § 50-6-405(b)(1)(F)(i), the certificate of deposit shall be automatically renewed.

(iii) Any interest accruing on the certificate of deposit while held in the depository institution shall be returned to the self-insured employer at the termination of the certificate of deposit, with the prior written approval of the Commissioner of Commerce and Insurance, provided that no claim is due or asserted against the certificate of deposit by the commissioner.

(H) Any letter of credit filed under this provision must be issued or guaranteed by a qualified United States financial institution that is located in the State of Tennessee.

(i) If a self-insured employer elects to secure payment of its workers' compensation claims by way of a letter of credit, an agreement shall be entered into between the Commissioner of Commerce and Insurance, the self-insured employer and the depository institution pledging the letter of credit for the benefit of the self-insured's employees and naming the Commissioner of Commerce and Insurance as beneficiary under such letter of credit.

(ii) Such letter of credit shall be clean, irrevocable and unconditional and shall contain a provision which requires the issuer to automatically renew such letter of credit unless the issuer shall provide at least ninety (90) days' prior written notice to the Commissioner of Commerce and Insurance of an intention to revoke or not renew such letter of credit. The self-insured employer shall annually submit to the Commissioner of Commerce and Insurance information regarding the status of such letter of credit, including evidence of its renewal.

(iii) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or configuration shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever occurs first. As used herein, the term "qualified United States financial institution" shall have the meaning assigned by Tennessee Code Annotated, Section 56-2-209(a).

(I) Any security held for purposes of compliance with this section shall be held for a minimum of ten (10) years after the self-insured employer is no longer self-insured and the self-insured employer shall maintain the fair market value of security on deposit at

not less than five hundred thousand dollars (\$500,000), unless otherwise approved by the Commissioner of Commerce and Insurance or the commissioner's designee.

(J) Any employer that is no longer self-insured pursuant to this section as of December 31, 2004, shall not be subject to the provisions of Tennessee Code Annotated, § 50-6-405(b)(1)(i).

(K) All security, and contracts evidencing the security, filed with the Commissioner of Commerce and Insurance shall be in a form substantively that has been previously approved by the Commissioner of Commerce and Insurance. Any security that fails to meet any requirement under this section shall not be considered for purposes of determining a self-insurer's compliance with any of the security maintenance requirements of this section;

SECTION 35. Tennessee Code Annotated, Section 50-6-405(b)(2), is amended by deleting the language "Such financial statement" from the third sentence and by substituting instead the following language:

The employer's losses and adequacy of reserves shall be certified biennially by an actuary qualified under rules established by the Commissioner of Commerce and Insurance for the filing of statements by insurance companies. Filings pursuant to this subsection

SECTION 36. Tennessee Code Annotated, Section 50-6-405(b)(2), is further amended by adding the following subdivisions:

(A) The Commissioner of Commerce and Insurance may assess a civil penalty of one hundred dollars (\$100) per day for each day any self-insured employer has failed to comply with any financial record filing requirement. Any such civil penalty assessed under this subdivision shall be cumulative and in addition to any other civil penalty or remedy available to the commissioner. No civil penalty shall be assessed against any political subdivision of the State of Tennessee.

(B) The Commissioner of Commerce and Insurance shall take into account all available information when making the determination as to both the adequacy of all security deposits, letters of credit, negotiable securities or bonds held by the commissioner and whether an employer has the ability to pay all claims that may arise.

SECTION 37. Tennessee Code Annotated, Section 50-6-405(b), is amended by deleting subdivisions 3, 4, 5 and 6 and adding the following new subdivisions:

(3) No employer shall self-insure its workers' compensation liabilities without a certificate of authority issued by the Commissioner of Commerce and Insurance. It shall be unlawful for any employer to self-insure its liabilities for workers' compensation without first obtaining a duly issued certificate of authority from the Commissioner of Commerce and Insurance. Whenever an employer has complied with the provisions of § 50-6-405(a)(2) and § 50-6-405(b)(1) and (2), the

Commissioner of Commerce and Insurance, or the Commissioner of Commerce and Insurance's designee, may issue to the employer a certificate of authority allowing the employer to self-insure under this provision. Notice of this authorization shall be sent to the Commissioner of Labor and Workforce Development.

(4) Upon failure by an authorized self-insured employer to furnish the Commissioner of Commerce and Insurance the requirements delineated in §§ 50-6-405(a)(2) and 50-6-405(b)(1) and (2), the Commissioner of Commerce and Insurance may, after giving written notice and an opportunity for a hearing to the affected party or parties within thirty (30) days, suspend or revoke the certificate authorizing the employer to self-insure granted under this section. The Commissioner of Commerce and Insurance may, without prior notice and if it appears in the commissioner's discretion that the continuation of such certificate would be clearly hazardous to the employees of the self-insurer or to the public generally, summarily suspend an authorized self-insurer's certificate before a hearing is commenced and in such an event shall immediately notify the self-insurer, and such notice shall include a statement to the effect that the commissioner's action is subject to review. All hearings conducted under this section shall comply with the "contested case" provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(5) Any hearing under this section shall be requested in writing by the self-insured employer within fifteen (15) days of receiving written notification from the Commissioner of Commerce and Insurance or the Commissioner of Commerce and Insurance's designee. In any proceeding in which the self-insured employer's certificate of authority is suspended or revoked, the self-insured employer shall pay all costs associated with the proceeding. The Commissioner of Commerce and Insurance may serve a notice, order, petition or complaint in any action arising under this section by certified mail to the self-insured employer at the address of record in the files of the department. Notwithstanding any provisions of law to the contrary, service in the manner set forth herein shall be deemed to constitute actual service on such self-insured employer.

(6) The Commissioner of Commerce and Insurance or the Commissioner of Commerce and Insurance's designee shall immediately notify the Commissioner of Labor and Workforce Development of any decision to suspend or revoke a certificate authorizing an employer to self-insure.

(7) The Commissioner of Commerce and Insurance or the Commissioner of Commerce and Insurance's designee has the authority to examine and investigate any self-insured employer whenever the commissioner deems it prudent to do so. The purposes and scope of any such examinations and the commissioner's powers shall be set forth in Title 56, Chapter 1, Part 4, pertaining to examinations of insurance companies.

(8) The Commissioner of Commerce and Insurance may promulgate such rules and regulations, including public necessity rules and regulations may be necessary for the administration of this section and shall conduct all rulemaking in accordance with the Uniform Administrative Procedures Act, as amended, at Title 4, Chapter 5.

SECTION 38. Tennessee Code Annotated, Section 56-1-409, providing for examinations by the Commissioner of Commerce and Insurance for the purpose of ascertaining financial condition or legality of conduct, is amended by adding the following language as a new item of subsection (b):

(5) Any employer that self-insures its workers' compensation liabilities pursuant to Section 50-6-405(b) or a group of employers qualifying as self-insurers pursuant to Section 50-6-405(c).

SECTION 39. Tennessee Code Annotated, Section 56-8-102, is amended by adding the following sentence at the end of subsection (3):

"Person" also means any employer to the extent that such employer self-insures its workers' compensation liabilities pursuant to Section 50-6-405(b) or a group of employers qualifying as self-insurers pursuant to Section 50-6-405(c).

SECTION 40. Tennessee Code Annotated, Section 56-8-104(8), is amended by adding the following as a new subsection (xi):

(xi) Failing to make payment of workers' compensation benefits as such payment is required by the Commissioner of the Department of Labor and Workforce Development or by Title 50, Chapter 6.

SECTION 41. Tennessee Code Annotated, Title 50, Chapter 6, Part 1, is amended by adding the following as a new, appropriately designated section:

() The Commissioner of Commerce and Insurance shall, on or before July 1, 2007, and annually thereafter through 2010, review the impact of the provisions of this act on premiums charged by insurers who provide workers' compensation coverage in this state. The Commissioner of Commerce and Insurance is authorized to require the production of any information, documents, books or records from any person who is subject to regulation by the department that the commissioner deems necessary to implement the provisions of this section.

SECTION 42. (a) The general assembly recognizes that significant cost savings will result from the implementation of this bill. It is in the best interest of the citizens of Tennessee that such cost savings be passed to the entities that have paid faithfully workers' compensation premiums in order to ensure the economic well-being of their employees. It is the intent and purpose of the general assembly that workers' compensation premiums be adjusted downward within fifteen (15) months of the effective date of this act to reflect the cost savings resulting from the provisions of this act. If a workers' compensation policy is subject to renewal during such fifteen (15) month period, adjustments to such policy may be made at such time.

(b) It is the intent of the general assembly that the savings of this act shall routinely be reflected in future filings through the advisory prospective loss cost filing system, pursuant to Tennessee Code Annotated, Sections 56-5-306(b) and 50-6-402. Nothing in this section shall be construed as amending or affecting the procedures for filing and approval of rates set forth in Tennessee Code Annotated, Title 56, Chapter 5.

SECTION 43. Tennessee Code Annotated, Section 50-6-121, is amended by adding a new subsection thereto, as follows:

(h) The advisory council on workers' compensation shall within ten (10) business days of each meeting it conducts provide a summary of the meeting and a report of all actions taken and all actions recommended to be taken to each member of the House Consumer and Employee Affairs Committee and the Senate Commerce, Labor and Agriculture Committee.

SECTION 44. Tennessee Code Annotated, Title 50, Chapter 6, Part 4, is amended by adding the following as a new section thereto:

Section 50-6-420. It is the intent of the general assembly that upon the filing of a claim pursuant to this chapter, the insurer is encouraged to provide semi-annual reports to the employer, at no cost to the employer, regarding the status of such claim.

SECTION 45. Tennessee Code Annotated, Section 50-6-121(a)(1)(B), is amended by adding the following language at the end of the item:

Proxy voting is prohibited by voting members of the council; provided, however, in instances where a voting member will be absent from a vote of the council, the member's appointing authority is authorized to appoint an alternate or designee for such vote or votes.

SECTION 46. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 47. This act shall take effect on July 1, 2004, except for Sections 2, 25, and 33, which shall take effect on July 1, 2005. Sections 3, 4, 5, 6, 13, 16, 17, 18, 20, 21 and 24 shall apply to accidents and injuries occurring on or after July 1, 2004. Sections 14 and 15 shall apply to accidents and injuries occurring on or after January 1, 2005. For the purpose of promulgating any rule authorized by this act, this act shall take effect on becoming law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted by the following vote:

Ayes	27
Noes	4

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Williams and Mr. Speaker Wilder--27.

Senators voting no were: Cohen, Harper, Person and Trail--4.

Senator Henry moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following language in Section 30 of the bill as an appropriately designated subsection of Tennessee Code Annotated, Section 50-6-121:

() The council shall study and report on the occupational health and safety of employments in Tennessee and make recommendations for safe employment education and training and promote the development of employer-sponsored health and safety programs.

AND FURTHER AMEND in Section 33 of the bill by deleting the language "thirteen (13)" in subsection (b), subdivision (1) of amendatory Section 50-6-125, and substituting instead the language "fourteen (14)" and further amend by adding the following language as new subpart (G):

(G) One (1) member shall represent the health insurance industry.

AND FURTHER AMEND in amendatory subsection (c) by adding the language "the representative of the health insurance industry," immediately following the colon in the first sentence.

AND FURTHER AMEND by deleting Section 46 of the bill in its entirety and substituting instead the following language:

SECTION 46. This act shall take effect on July 1, 2004, except for Sections 2, 25, and the deletion of Tennessee Code Annotated, Section 50-6-125, subsection (e) and subsection (f) in Section 33, which shall take effect on July 1, 2005. Sections 3, 4, 5, 6, 13, 16, 17, 18, 20, 21, and 24, shall apply to accidents and injuries occurring on or after July 1, 2004. Section 14 shall apply to accidents and injuries occurring on or after January 1, 2005. For the purpose of promulgating any rule authorized by this act, this act shall take effect on becoming law, the public welfare requiring it.

AND FURTHER AMEND by adding the following language as a new, appropriately designated section to precede the effective date section:

SECTION ___. Tennessee Code Annotated, Section 50-6-204(d), is amended by adding the following as a new subdivision:

() In case of a dispute as to the injury, other than disputes as to the degree of medical impairment, the court may, at the instance of either party, or on its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report such physician's findings to the court, the expense of which examination shall be borne equally by the parties.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ___. Tennessee Code Annotated, Section 50-6-405(c)(1), is amended by deleting the first sentence in its entirety and by substituting instead the following language:

With the permission of a trade or professional association board of directors, ten (10) or more employers of the same group may enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Such

pool and agreement shall only continue as long as the sponsoring association's board of directors deems that such pool is operating in compliance with the sponsoring association's constitution, bylaws and procedures and applicable state statutes and regulations.

Senator Kyle moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 3

AMEND by deleting the third amendatory clause in its entirety as follows:

AND FURTHER AMEND by deleting Section 46 of the bill in its entirety and substituting instead the following language:

SECTION 46. This act shall take effect on July 1, 2004, except for Sections 2, 25, and the deletion of Tennessee Code Annotated, Section 50-6-125 subsection (e) and subsection (f) in Section 33, which shall take effect on July 1, 2005. Sections 3, 4, 5, 6, 13, 16, 17, 18, 20, 21, and 24 shall apply to accidents and injuries occurring on or after July 1, 2004. Section 14 shall apply to accidents and injuries occurring on or after January 1, 2005. For the purpose of promulgating any rule authorized by this act, this act shall take effect on becoming law, the public welfare requiring it.

and substituting instead the following language as a new third amendatory clause:

AND FURTHER AMEND by deleting Section 47 of the bill in its entirety and substituting instead the following language:

SECTION 47. Except as otherwise provided in this section, this act shall take effect on July 1, 2004. Sections 14, 16, 17, 18, 20, 21, 34, 35, 36, 37, and 38 shall take effect January 1, 2005. Sections 2, 24, 25, and the deletion of Tennessee Code Annotated, Section 50-6-125 subsection (e) and subsection (f) in Section 33, shall take effect July 1, 2005. Sections 3, 4, 5, 6, 8, and 13 shall apply to accidents or injuries occurring on or after July 1, 2004. Sections 14, 16, 17, 18, 20, and 21 shall apply to accidents or injuries occurring on or after January 1, 2005. Section 24 shall apply to accidents or injuries occurring on or after July 1, 2005. For the purpose of promulgating any rule authorized by this act, this act shall take effect upon becoming a law, the public welfare requiring it.

AND FURTHER AMEND in the fourth amendatory clause by deleting the language "In case of a dispute as to the injury" and substituting instead the language "For accidents or injuries occurring on or after July 1, 2005, in case of a dispute as to the injury".

Pursuant to Rule 39(3), Amendment No. 1 to Amendment No. 3 was adopted by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle,

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McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

On motion, Amendment No. 3, as amended, was adopted by the following vote:

Ayes	28
Noes	0
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

Senator present and not voting was: Cohen--1.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding at the end of the amendatory language in Section 27 of the bill, as amended, the following language:

The Chair making such referral shall immediately notify the prime sponsors of such referral and the council shall not review and comment on proposed legislation until the prime sponsors have been notified. The comments of the council shall not include recommendations for or against passage of the proposed legislation but shall describe the potential effects of the proposed legislation on the workers' compensation system and its operation and any other information or suggestions which the council may think helpful to the sponsors, the standing committees or the general assembly.

On motion, Amendment No. 4 was adopted by the following vote:

Ayes	29
Noes	0
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

Senator present and not voting was: Cohen--1.

Senator Cooper moved that Amendment No. 5 be placed behind Amendment No. 13, which motion prevailed.

Senator Crutchfield moved that Amendment No. 6 be placed behind Amendment No. 5, which motion prevailed.

Senator Trail moved to amend as follows:

AMENDMENT NO. 7

AMEND by deleting the words "clear and convincing evidence" in the last sentence of (d)(5) in Section 24 and substituting instead the words "a preponderance of the evidence".

Senator Kyle moved Amendment No. 7 go to the table, which motion prevailed by the following vote:

Ayes 17
Noes 13

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Dixon, Graves, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Ramsey, Southerland and Williams--17.

Senators voting no were: Cohen, Cooper, Crowe, Crutchfield, Fowler, Harper, Haynes, Herron, Jackson, Miller, Person, Trail and Mr. Speaker Wilder--13.

Senator Trail moved to amend as follows:

AMENDMENT NO. 8

AMEND by deleting Sections 14, 15, 16 and 18 in their entirety.

AND FURTHER AMEND by deleting subsection (b) of Section 20, by redesignating the subsequent sections accordingly, and by substituting instead the following:

(b) The parties to a dispute shall attend and participate in a benefit review conference that addresses all issues related to a final resolution of the matter. No final hearing in a claim for workers' compensation under the provisions of this chapter may occur unless the parties shall have exhausted the benefit review conference process. Notwithstanding the provisions of this subsection, if the parties have mutually agreed to a compromise and settlement of a claim for workers' compensation, the parties shall not be required to exhaust the benefit review conference process before submitting the compromise and settlement to the appropriate court for approval pursuant to Tennessee Code Annotated, Section 50-6-206(a), or to the Commissioner of Labor and Workforce Development or his designee pursuant to Section 50-6-206(c). If the settlement is not approved, the parties shall then exhaust the benefit review conference process.

(c) Exhaustion of the benefit review conference process shall include, but not be limited to, an agreement by the parties and the benefit review specialist that further proceedings under Tennessee Code Annotated, Section 50-6-236 through Section 50-6-240, will not lead to a resolution of the claim.

AND FURTHER AMEND by adding the following new subdivision (E) to the amendatory language in Section 3:

(E) Nothing in the section shall be construed to prohibit the parties from compromising and settling at any time the issue of future medical benefits when the provisions of Section 50-6-206(b) are applicable.

AND FURTHER AMEND by deleting the words "clear and convincing evidence" in the last sentence of (d)(5) in Section 24 and substituting instead the words "a preponderance of the evidence".

Senator Trail moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 8

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 50-6-225(a)(1), is amended by deleting the language ", criminal".

SECTION ____ Tennessee Code Annotated, Section 50-6-225(e)(1), is amended by deleting the language ", criminal" from the subdivision.

On motion, Amendment No. 1 to Amendment No. 8 was adopted by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

Senator Kyle moved Amendment No. 8, as amended, go to the table, which motion prevailed by the following vote:

Ayes 20
Noes 11

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Crowe, Dixon, Ford, Fowler, Graves, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Ramsey, Southerland and Williams--20.

Senators voting no were: Bryson, Cohen, Cooper, Crutchfield, Harper, Haynes, Herron, Jackson, Miller, Person and Trail--11.

On motion of Senator Trail, Amendment No. 9 was withdrawn.

Senator Jackson moved to amend as follows:

AMENDMENT NO. 10

AMEND by inserting the following language immediately after the third sentence of the subdivision (d)(5) of the amendatory language of Section 24:

No physician may serve as an independent medical examiner in a case and serve on any panel of providers selected under Section 50-6-204 for the employer involved in such case.

On motion, Amendment No. 10 was adopted by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 11

AMEND by adding the following as a new section to precede the effective date section:

SECTION _____. The general assembly recognizes that significant cost savings will result from the implementation of this bill. It is in the best interest of the citizens of Tennessee that such cost savings be passed to the entities that have paid faithfully workers' compensation premiums in order to ensure the economic well-being of their employees. It is the intent and purpose of the general assembly that workers' compensation premiums be adjusted within nine (9) months of the effective date of this act to reflect the cost savings resulting from the provisions of this act. If a workers' compensation policy is subject to renewal during such nine (9) month period, adjustments to such policy may be made at such time.

Senator Kyle moved Amendment No. 11 go to the table, which motion prevailed by the following vote:

Ayes 18
Noes 13

Senators voting aye were: Atchley, Burchett, Burks, Crowe, Dixon, Fowler, Graves, Henry, Jackson, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Ramsey, Southerland and Williams--18.

Senators voting no were: Bryson, Clabough, Cohen, Cooper, Crutchfield, Ford, Harper, Haynes, Herron, Ketron, Miller, Person and Trail--13.

Senator Miller moved to amend as follows:

AMENDMENT NO. 12

AMEND by deleting the amendatory language of Section 20 of the bill as amended in its entirety and by substituting instead the following language:

(a) On receipt of a request from a party or on its own motion, the court may direct the parties to a disputed workers' compensation claim to meet in a benefit review conference to attempt to reach agreement on disputed issues involved in the claim.

(b) Immediately following a benefit review conference, either party may move the court to set the case for final adjudication on an expedited basis.

(c)(1) At the time of a request for a benefit review conference or a court mandated conference, the division of workers' compensation shall notify the parties in writing of the length of time required to make available a specialist to conduct a conference. If the time period is thirty (30) days or less, then the conference is mandatory for the parties. Notwithstanding any other provision of law or local court rule to the contrary, if the time period exceeds thirty (30) days, then the conference is optional for that case and the division shall inform the parties in writing that the conference is not required. The parties shall cooperate in scheduling a conference. The commissioner is authorized to promulgate rules concerning scheduling pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. A violation of such rules is a basis for a specialist to declare an impasse and conclude a conference.

(2) When a benefit review conference program is mandatory for a case, a court may not conduct a trial or enter an agreed order without a report from a workers' compensation specialist pursuant to § 50-6-240, unless permitted by this section. Prior to trial or the entry of an order, the court shall determine from the parties whether a benefit review conference was held and whether the division determined that the conference was optional or mandatory.

(3) An employer and employee (or their representatives) may agree in writing to waive a mandatory benefit review conference.

Senator Kyle moved Amendment No. 12 go to the table, which motion prevailed by the following vote:

Ayes	22
Noes	10

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Crowe, Dixon, Ford, Fowler, Graves, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Ramsey, Southerland and Williams--22.

Senators voting no were: Cohen, Cooper, Crutchfield, Harper, Haynes, Jackson, Miller, Person, Trail and Mr. Speaker Wilder--10.

On motion of Senator Miller, Amendment No. 13 was withdrawn.

Senator Ketron moved that Amendment No. 14 be placed behind Amendment No. 6, which motion prevailed.

Senator Kyle moved to amend as follows:

AMENDMENT NO. 15

AMEND by adding the following language in Section 18 of the bill as a new subsection (i) in amendatory §50-6-236:

(i) For the purpose of conducting discovery as part of a benefit review conference, workers' compensation specialists shall have the authority, at the request of either party, to refer matters to a specially designated attorney within the department who may issue

subpoenas, effect discovery, and issue protective orders in the same manner as an administrative judge or hearing officer pursuant to §4-5-311.

Senator Miller moved Amendment No. 15 go to the table, which motion failed by the following vote:

Ayes 3
Noes 25

Senators voting aye were: Crutchfield, Haynes and Person--3.

Senators voting no were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Dixon, Ford, Graves, Henry, Haynes, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Williams and Mr. Speaker Wilder--25.

Pursuant to Rule 39(3), Amendment No. 15 was adopted by the following vote:

Ayes 29
Noes 3

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

Senators voting no were: Crutchfield, Harper and Person--3.

Senator Norris moved to amend as follows:

AMENDMENT NO. 16

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ___. Tennessee Code Annotated, Section 50-6-206(a)(1), is amended by deleting the language ", chancery court or criminal court" wherever it appears in the first and second sentences of the subdivision and by substituting instead the language "or chancery court".

SECTION ___. Tennessee Code Annotated, Section 50-6-225(e)(1), is amended by deleting the language ", criminal" from the subdivision.

Pursuant to Rule 39(3), Amendment No. 16 was adopted by the following vote:

Ayes 29
Noes 1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

Senator voting no was: Crutchfield--1.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 5

AMEND by deleting the language "one and one-half (1½) times" in Item (d)(1)(A) in the first sentence of the amendatory language of Section 11, as amended, and by substituting instead the language "one and seventy-five hundredths (1.75) times".

Senator Kyle moved Amendment No. 5 go to the table, which motion prevailed by the following vote:

Ayes	22
Noes	9

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Crowe, Dixon, Ford, Fowler, Graves, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland and Williams--22.

Senators voting no were: Cohen, Cooper, Crutchfield, Harper, Haynes, Herron, Jackson, Person and Trail--9.

On motion of Senator Crutchfield, Amendment No. 6 was withdrawn.

On motion of Senator Ketron, Amendment No. 14 was withdrawn.

Thereupon, **House Bill No. 3531**, as amended, passed its third and final consideration by the following vote:

Ayes	28
Noes	4

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

Senators voting no were: Cohen, Crutchfield, Harper and Person--4.

A motion to reconsider was tabled.

Senate Bill No. 532 -- Foster Care -- Establishes pilot project for group therapeutic homes for at-risk children in Shelby County. Amends TCA Title 37.

On motion of Senator Fowler, Amendment No. 1 was withdrawn.

Senator Ford moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. (a) There is hereby authorized and established a pilot project for grants for group therapeutic homes for at-risk children. The pilot project shall be

administered by the Department of Children's Services. The provisions of this section shall only apply in counties having a population of not less than eight hundred ninety-seven thousand four hundred (897,400) nor more than eight hundred ninety-seven thousand five hundred (897,500) according to the 2000 federal census or any subsequent federal census. The pilot project shall expire on June 30, 2009. State funds for such grants in any fiscal year may not exceed one hundred thousand dollars (\$100,000).

(b) Group therapeutic homes shall include foster care and group homes which address the needs of at-risk youth, particularly the needs of mildly disturbed youth. Such homes shall employ a team support system for a continuity of care. The support team may include a psychiatrist or psychologist, a family therapist, a child care worker, and an activity specialist. The project may fund the refurbishing of existing homes.

SECTION 2. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 3. The Department of Children's Services shall prepare a report detailing, for the previous fiscal year, the number of grants issued, the amount of each such grant, the purpose for which the grant was made and any other information that would best enable the general assembly to evaluate the success of the grant program and determine whether it should be renewed on July 1, 2009. Such report shall be filed with the Clerk of the Senate and House of Representatives and the Chair of the Senate General Welfare Committee and the Chair of the House of Representatives Health and Human Resources Committee.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

Pursuant to Rule 39(3), Amendment No. 2 was adopted by the following vote:

Ayes	25
Noes	2
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, Miller, Person, Southerland, Trail, Williams and Mr. Speaker Wilder--25.

Senators voting no were: Burchett and Ramsey--2.

Senator present and not voting was: Fowler--1.

Thereupon, **Senate Bill No. 532**, as amended, passed its third and final consideration by the following vote:

Ayes	20
Noes	4
Present, not voting . . .	1

Senators voting aye were: Atchley, Burks, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Henry, Herron, Kilby, Kurita, Kyle, McLeary, McNally, Person, Trail, Williams and Mr. Speaker Wilder--20.

Senators voting no were: Burchett, Jackson, Ketron and Ramsey--4.

Senator present and not voting was: Fowler--1.

A motion to reconsider was tabled.

MOTION

Senator Harper moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 792**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 792 -- General Assembly, Directed Studies -- Directs the Tennessee Commission on Children and Youth in conjunction with the Department of Health to collect data regarding violent deaths among children in Tennessee.

On motion of Senator Harper, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 792** was concurred in.

A motion to reconsider was tabled.

MOTION

Senator Fowler moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 1206**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 1206 -- Memorials, Congress -- Urges Congress to amend Internal Revenue Code of 1986 to allow deduction of state and local sales taxes in lieu of state and local income taxes.

On motion of Senator Fowler, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 1206** was adopted by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

MOTION

Senator Crutchfield moved that the rules be suspended for the immediate consideration of **Senate Resolution No. 271**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Resolution No. 271 -- Memorials, Public Service -- Angels in Flight, Incorporated.

On motion of Senator Crutchfield, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 271** was concurred in.

A motion to reconsider was tabled.

NOTICES

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 555, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1093. The House nonconcurred in Senate Amendments Nos. 1 and 2.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2166. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2385. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2557. The House refused to recede from its action in adopting House Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2636. The House nonconcurred in Senate Amendment No. 3.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2960. The House nonconcurred in Senate Amendment No. 2.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3098. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3186. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3291, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3305. The House lifted from the table the motion to reconsider Senate Bill No. 3305. The House reconsidered Senate Bill No. 3305, adopted Amendment No. 2 and repassed Senate Bill No. 3305, as amended.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3591. The House nonconcurred in Senate Amendments Nos. 1 and 2.

BURNEY T. DURHAM,
Chief Clerk.

RECESS

Senator Crutchfield moved the Senate stand in recess for forty-five minutes, which motion prevailed.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Wilder.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

STANDING COMMITTEE REPORTS

STATE AND LOCAL GOVERNMENT

MR. SPEAKER: Your Committee on State and Local Government begs leave to report that we have carefully considered and recommend that Senate Bill No. 3277 be referred to Committee on Finance, Ways and Means.

COHEN, Chairperson
May 20, 2004

The Speaker announced that he had referred Senate Bill No. 3277 to Committee on Finance, Ways and Means.

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 1199 with amendment, 3277 and 3281 with amendment.

HENRY, Chairperson
May 20, 2004

The Speaker announced that he had referred Senate Bills Nos. 1199 with amendment, 3277 and 3281 with amendment to Committee on Calendar.

CALENDAR NO. 1

Senator Crowe moved that **Senate Bill No. 2617** be placed at the heel of the calendar for today, which motion prevailed.

Senate Bill No. 2689 -- State Inmates -- Establishes, under certain circumstances, the rate of indemnification for wrongful imprisonment. Amends TCA Title 9, Chapter 8.

On motion, Senate Bill No. 2689 was made to conform with **House Bill No. 2859**.

On motion, House Bill No. 2859, on same subject, was substituted for Senate Bill No. 2689.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2859** passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

Senate Bill No. 2861 -- Pensions and Retirement Benefits -- Adds retired teacher to be appointed by governor to board of trustees of TCRS. Amends TCA Section 8-34-302.

On motion, Senate Bill No. 2861 was made to conform with **House Bill No. 3336**.

On motion, House Bill No. 3336, on same subject, was substituted for Senate Bill No. 2861.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the amendatory language of Section 4 of the printed bill and by substituting instead the following:

(15) One (1) retired teacher, who is a vested member of the Tennessee consolidated retirement system, to be elected at large by the representative assembly of the Tennessee retired teachers association to serve for a one (1) year term commencing on July 1, 2004. The retired teacher shall be a non-voting member of the board of trustees. The Tennessee retired teachers association shall satisfy all costs and expenses related to the aforementioned position.

AND FURTHER AMEND, by adding the following as a new Section 5 of the printed bill, and by redesignating the existing Section 5 to be Section 6.

SECTION 5. Tennessee Code Annotated, Section 8-34-302, is amended by adding the following as a new subsection (c):

(c) The board of trustees is hereby directed to study the composition of the board and to submit its written findings to the Council on Pensions and Insurance no later than February 1, 2005.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3336**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 2975 -- District Attorneys -- Increases salaries of assistant district attorneys general for each year of experience in the position. Amends TCA Section 8-7-226 and Title 16, Chapter 2.

On motion, Senate Bill No. 2975 was made to conform with **House Bill No. 3468**.

On motion, House Bill No. 3468, on same subject, was substituted for Senate Bill No. 2975.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting from Section 1 the directory language "Section 8-7-226, is amended by deleting the section" and substituting instead the language "Section 8-7-226(a), is amended by deleting the subsection".

AND FURTHER AMEND by adding the following language immediately preceding the words "Entry Level" in Section 1:

(a) All assistant district attorneys general hired after July 1, 1994, shall be compensated according to the following pay schedule:

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3468**, as amended, passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 2976 -- District Attorneys -- Increases the number of assistant district attorneys general by at least one in certain judicial districts. Amends TCA Title 16, Chapter 2, and Title 8, Chapter 14.

On motion, Senate Bill No. 2976 was made to conform with **House Bill No. 3429**.

On motion, House Bill No. 3429, on same subject, was substituted for Senate Bill No. 2976.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 2, Part 5, is amended by adding the following new section:

Section 16-2-520. (a) Effective July 1, 2004, there is created thirty (30) additional assistant district attorney general positions to be designated in judicial districts as provided in this section.

(b)(1) The executive director of the district attorneys general conference and the administrative director of the courts shall meet and prepare a report that contains the recommendations of such officials as to the specific judicial

districts in which the additional assistant district attorney general positions created pursuant to subsection (a) should be designated. Such report shall be prepared in consultation with the comptroller.

(2) By October 1, 2004, the executive director of the district attorneys general conference shall file the report prepared pursuant to subsection (b)(1) with the Speaker of the Senate and House of Representatives and Chair of the Judiciary Committee of the Senate and House of Representatives. Upon the filing of such report, the district attorneys general recommended by the report to receive additional assistant positions shall be authorized to interview and employ persons to fill such positions.

(c) As early as is practicable during the first session of the One Hundred Fourth General Assembly, the general assembly shall consider and enact legislation that specifically designates the judicial district in which the person employed in the additional assistant district attorney general positions created pursuant to subsection (a) will serve.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3429**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 3016 -- State Employees -- Includes Tennessee Foreign Language Institute in-state institutions of higher education at which state employees may take one free course per term; reimbursement to come from existing funding. Amends TCA Section 8-50-114.

On motion, Senate Bill No. 3016 was made to conform with **House Bill No. 2867**.

On motion, House Bill No. 2867, on same subject, was substituted for Senate Bill No. 3016.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2867** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 3019 -- Victims' Rights -- Directs that criminal injury fund compensation shall be payable to certain family members of victims for unreimbursed or unreimbursable mental health counseling or treatment up to \$3,500. Amends TCA Title 29, Chapter 13, Part 1.

On motion, Senate Bill No. 3019 was made to conform with **House Bill No. 3453**.

On motion, House Bill No. 3453, on same subject, was substituted for Senate Bill No. 3019.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3453** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 3057 -- Marriage -- Deletes exception to payment of additional \$62.50 fee for marriage license that both applicants are out-of-state residents. Amends TCA Section 36-6-413.

Senator Norris moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 1 in its entirety and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 36-6-413(b)(2), is amended by deleting the following language:

when both applicants provide the county clerk with an affidavit or valid driver license establishing that they are not Tennessee residents or

and by substituting instead the following language:

, in any county having a municipality defined as a premier type tourist resort pursuant to § 67-6-103(a)(3)(B), when both applicants provide the county clerk with an affidavit or valid driver license establishing that they are not Tennessee residents, or

On motion, Amendment No. 1 was adopted.

Senator Fowler moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The provisions of this act shall not apply in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900) according to the 2000 federal census or any subsequent federal census.

On motion, Amendment No. 2 was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The provisions of this act shall not apply in any county having a population of not less than eight hundred ninety-seven thousand four hundred (897,400) nor more than eight hundred ninety-seven thousand five hundred (897,500) according to the 2000 federal census or any subsequent federal census.

On motion, Amendment No. 3 was adopted by the following vote:

Ayes	14
Noes	5
Present, not voting . . .	9

Senators voting aye were: Atchley, Bryson, Burks, Clabough, Crowe, Dixon, Fowler, Graves, Harper, Ketron, McNally, Miller, Norris and Person--14.

Senators voting no were: Burchett, Cohen, Cooper, Kurita and Trail--5.

Senators present and not voting were: Crutchfield, Henry, Herron, Jackson, Kilby, McLeary, Ramsey, Southerland and Williams--9.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The provisions of this act shall not apply in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more

than three hundred seven thousand nine hundred (307,900) according to the 2000 federal census or any subsequent federal census.

On motion, Amendment No. 4 was adopted.

On motion of Senator Henry, Amendment No. 5 was withdrawn.

Senator Henry moved to amend as follows:

AMENDMENT NO. 6

AMEND by adding the following new section to be appropriately designated:

SECTION ____ No funds collected as a result of this act shall be expended in any county excluded from the provisions of this act.

On motion, Amendment No. 6 was adopted.

Senator Miller moved to amend as follows:

AMENDMENT NO. 7

AMEND by exempting the counties in the 9th senatorial district by population from the provisions of this bill.

Pursuant to Rule 39(3), Amendment No. 7 was adopted by the following vote:

Ayes	26
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

Thereupon, **Senate Bill No. 3057**, as amended, passed its third and final consideration by the following vote:

Ayes	27
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

Senator Cooper moved that **Senate Bill No. 2458** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 3093 -- Firefighters -- Authorizes payment of \$25,000 from general fund to estate of firefighter killed in the line of duty. Amends TCA Title 7, Chapter 51, Part 2.

On motion, Senate Bill No. 3093 was made to conform with **House Bill No. 2831**.

On motion, House Bill No. 2831, on same subject, was substituted for Senate Bill No. 3093.

Thereupon, **House Bill No. 2831** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 3148 -- State Employees -- Revises compensation structure of Tennessee Bureau of Investigation employees. Amends TCA Title 38, Chapter 6.

On motion, Senate Bill No. 3148 was made to conform with **House Bill No. 3291**.

On motion, House Bill No. 3291, on same subject, was substituted for Senate Bill No. 3148.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3291** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 1352 -- Public Defenders -- Increases authorized number of assistant public defender positions. Amends TCA Title 8, Chapter 14, Part 2.

On motion, Senate Bill No. 1352 was made to conform with **House Bill No. 131**.

On motion, House Bill No. 131, on same subject, was substituted for Senate Bill No. 1352.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 3 of the printed bill and by substituting instead the following:

SECTION 3. This act shall take effect January 1, 2005.

On motion, Amendment No. 1 was adopted.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 131**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 3153 -- Highway Signs -- "John Douglas Ward Memorial Bridge", railroad overpass bridge on S.R. 62 in Lancing community of Morgan County.

On motion, Senate Bill No. 3153 was made to conform with **House Bill No. 3128**.

On motion, House Bill No. 3128, on same subject, was substituted for Senate Bill No. 3153.

On motion of Senator Kilby, Amendment No. 1 was withdrawn.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following as a new section to precede the effective date section:

SECTION _____. This act shall become operative only if the cost of the manufacture and installation of such signs is paid to the Department of Transportation from non-state funds within one (1) year of the effective date of this act. Such payment shall be made prior to any expenditure by the state for the manufacture of such signs. The department shall return any unused portion of the estimated cost to the person or entity paying for such signs within thirty (30) days of the erection of such signs. If the actual cost exceeds the estimated cost, an amount equal to the difference in such costs shall be remitted to the department in non-state funds within thirty (30) days of the sponsoring person or entity receiving an itemized invoice of the actual cost from the department.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 3128**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senator Kilby moved that **Senate Bill No. 3159** be moved four places down on the calendar for today, which motion prevailed.

Senate Bill No. 3209 -- Criminal Offenses -- Redefines "aggravated cruelty" to include failure to provide food and water to companion animal resulting in substantial risk of death or death. Amends TCA Title 39, Chapter 14, Part 2.

On motion, Senate Bill No. 3209 was made to conform with **House Bill No. 3458**.

On motion, House Bill No. 3458, on same subject, was substituted for Senate Bill No. 3209.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3458** passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 3217 -- Sexual Offenses -- Enacts the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act of 2004" and creates the Class E felony offense of perjury regarding a sexual offender registration form. Amends TCA Section 39-16-702 and Title 40, Chapter 39.

On motion, Senate Bill No. 3217 was made to conform with **House Bill No. 3467**.

On motion, House Bill No. 3467, on same subject, was substituted for Senate Bill No. 3217.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Senator Jackson moved that **House Bill No. 3467** be moved two places down on the calendar for today, which motion prevailed.

Senate Bill No. 3219 -- Election Laws -- Revises times candidates or political campaign committees who have appointed political treasurer less than one year before an election must file the initial contribution, loan and expenditure statement. Amends TCA Section 2-10-105.

On motion, Senate Bill No. 3219 was made to conform with **House Bill No. 3427**.

On motion, House Bill No. 3427, on same subject, was substituted for Senate Bill No. 3219.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting subdivision (7) in the amendatory language of Section 1.

AND FURTHER AMEND by deleting the language "as new subdivisions" and substituting instead the language "as a new subdivision" in the directory language of Section 1.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3427**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 3252 -- Tort Liability -- Requires medical malpractice insurers to submit information to Department of Commerce and Insurance regarding claims and lawsuits on forms prescribed by the department. Amends TCA Title 56.

On motion, Senate Bill No. 3252 was made to conform with **House Bill No. 3252**.

On motion, House Bill No. 3252, on same subject, was substituted for Senate Bill No. 3252.

Senator Clabough moved that Amendment No. 1 be placed behind Amendment No. 3, which motion prevailed.

Senator Fowler moved that Amendment No. 2 be placed behind Amendment No. 1, which motion prevailed.

On motion of Senator Henry, Amendment No. 3 was withdrawn.

On motion of Senator Clabough, Amendment No. 1 was withdrawn.

On motion of Senator Fowler, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 3252** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 3467

Senator Jackson moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting subsection (d) of Section 40-39-208 of the amendatory language of Section 1 and substituting instead the following:

(d)(1) In a prosecution for a violation of this section, upon the request of a district attorney general, law enforcement agency, the board of probation and parole, or its officers, or a court of competent jurisdiction, and for any lawful purpose permitted by this part, the records custodian of the TBI's centralized records system of offender registration, verification and tracking information (SOR) shall provide the requesting agency with certified copies of specified records being maintained in the registry.

(2) The records custodian providing copies of records to a requesting agency pursuant to subdivision (1), shall attach the following certification:

I, _____, HAVING BEEN APPOINTED BY THE DIRECTOR OF THE TENNESSEE BUREAU OF INVESTIGATION AS CUSTODIAN OF THE BUREAU'S CENTRALIZED RECORDS SYSTEM OF SEXUAL AND VIOLENT SEXUAL OFFENDERS, REGISTRATION, VERIFICATION AND TRACKING INFORMATION (SOR), HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECORDS MAINTAINED WITHIN SAID REGISTRY.

SIGNATURE

TITLE

AFFIX THE BUREAU SEAL HERE

AND FURTHER AMEND by deleting the final sentence of subsection (f) of Section 40-39-207 of the amendatory language of Section 1 and substituting instead the following:

The TBI official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons such request was denied.

AND FURTHER AMEND by adding the following new Section 3 and Section 4 and by renumbering subsequent sections accordingly.

SECTION 3. If the provisions of this act are declared to be invalid, the provisions of Tennessee Code Annotated, Title 40, Chapter 39, Part 1, as such part existed on July 31, 2004, shall be revived and take full force and effect. It is the intent of the general assembly that, if this act is declared invalid, the prior law shall immediately govern and regulate the registration, verification and tracking of sexual offenders in this state.

SECTION 4. Effective August 1, 2004, Tennessee Code Annotated, Title 40, Chapter 39, Part 1, is amended by deleting the part in its entirety. All sexual offenders who were, prior to such date, subject to the provisions of Tennessee Code Annotated, Title 40, Chapter 39, Part 1, shall, on and after such date, be subject to the provisions of Tennessee Code Annotated, Title 40, Chapter 39, Part 2, created by this act.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 3467**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

SENATE MESSAGE CALENDAR #2

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 20, 2004: Senate Bills Nos. 2557, 3291 and 3305; and House Bills Nos. 1093, 2166, 2385, 2636, 2960, 3098, 3186 and 3591.

MOTION

Senator Crutchfield moved that Rule 19 be suspended for the purpose of considering Message Calendar No. 2 next, which motion prevailed.

SENATE MESSAGE CALENDAR NO. 2

Senate Bill No. 2557 -- Sunset Laws -- Tennessee higher education commission, June 30, 2006. Amends TCA Title 4, Chapter 29 and Title 49, Chapter 7.

Senator Harper moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 1 to **Senate Bill No. 2557**, which motion prevailed.

Senator Harper moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 2557**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
SENATE BILL NO. 2557**

The Speaker announced the appointment of a Conference Committee composed of Senators Harper, Chairperson; Bryson and McLeary to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No. 2557.

Mr. Speaker Wilder moved that **Senate Bill No. 3291** be moved three places down on Message Calendar No. 2 for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3305 -- Education -- Requires state board to formulate policy for attendance and transfer of students whose custodial parents reside in two LEAs. Amends TCA Title 49, Chapter 6, Part 30 and Title 49, Chapter 6, Part 31.

HOUSE AMENDMENT NO. 2

AMEND by deleting Section 1 of the printed bill and substituting the following new Section 1:

SECTION 1. The State Board of Education and the State Department of Education shall study the need for, and necessary elements of, a policy governing the assignment, transfer, and allocation of funds from one district to another for school students who are in the custody of both parents and who alternate between the residences of the parents. Such study shall be completed by February 1, 2005, and the results and recommendations shall be reported to the Chairs of the Education Committees of the Senate and House of Representatives.

Senator Herron moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3305**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MOTION

Senator Jackson moved that **Senate Bill No. 1352** be recalled from the House, which motion prevailed.

SENATE MESSAGE CALENDAR NO. 2

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3291 -- Alcoholic Beverages -- Clarifies that the provisions of law authorizing beer manufacturers to operate as a retailer and hold a restaurant license apply to Pigeon Forge. Amends TCA Section 57-5-101.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 57-5-101(c)(2), is amended by adding the following sentence after the first sentence:

Notwithstanding any provision of law to the contrary, any transfer or sale by a manufacturer operating as a retailer to an off-site retailer's location shall constitute a wholesale sale.

Senator Clabough moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3291**, which motion prevailed by the following vote:

Ayes	27
Noes	1

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--27.

Senator voting no was: Burks--1.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1093 -- Education -- Requires institutions of higher education to report to law enforcement officer if they have probable cause to believe that student committed any felony or Class A misdemeanor while on campus. Amends TCA Title 49.

Senator Dixon moved that the Senate refuse to recede from its action in adopting Senate Amendments Nos. 1 and 2 to **House Bill No. 1093**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2166 -- Real Property -- Enacts the "Neighborhood Preservation Act".

Senator Haynes moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 1 to **House Bill No. 2166**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2385 -- Safety -- Empowers the Department of Health to inspect, test and quarantine any property used for the manufacture of methamphetamine, and allows those activities to be considered in the calculation of restitution for the cost of making the property safe for human use. Amends TCA Title 68.

Senator Burks moved to lift from the table a motion to reconsider on **House Bill No. 2385**, which motion prevailed.

Senator Burks moved that the Senate reconsider its action in passing **House Bill No. 2385**, which motion prevailed.

Senator Burks moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 2385**, which motion prevailed.

Senator Burks moved that Amendment No. 1 to **House Bill No. 2385** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2385** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2636 -- Drugs -- Enacts "Drug Dealer Liability Act".

Senator Miller moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 3 to **House Bill No. 2636**, which motion prevailed.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Haynes as Speaker pro tempore.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2960 -- Education -- Requires school nurses to maintain current certification in CPR and schools to have at least one employee or volunteer who is certified in CPR. Amends TCA Section 49-5-414 and Section 49-3-359.

Senator Person moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 2 to **House Bill No. 2960**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 3098 -- Highway Signs -- "Charles C. Beard Memorial Bridge", State Bridge No. 60-03209-.19 on S.R. 6 in Maury County.

Senator Ketron moved to lift from the table a motion to reconsider on **House Bill No. 3098**, which motion prevailed.

Senator Ketron moved that the Senate reconsider its action in passing **House Bill No. 3098**, which motion prevailed.

Senator Ketron moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 3098**, which motion prevailed.

Senator Ketron moved that Amendment No. 1 to **House Bill No. 3098** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 3098** passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland and Trail--28.

A motion to reconsider was tabled.

Speaker pro tempore Haynes moved that **House Bill No. 3186** be placed at the heel of Message Calendar No. 2 for today, which motion prevailed.

NOTICE

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to request the return of Senate Bill No. 555, for further consideration.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

Senator Clabough moved that **Senate Bill No. 555** be returned to the House, which motion prevailed.

MOTION

Senator Henry moved that **Senate Bill No. 2794** be recalled from the House, which motion prevailed.

SENATE MESSAGE CALENDAR NO. 2

Senator Burchett moved that **House Bill No. 3186** be placed on the next Message Calendar, which motion prevailed.

Speaker pro tempore Haynes moved that **House Bill No. 3591** be placed at the heel of Regular Calendar No. 1 for today, which motion prevailed.

NOTICES

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2479. The House lifted from the table the motion to reconsider its action on Senate Bill No. 2479. The House reconsidered Senate Bill No. 2479, reconsidered House Amendment No. 1, withdrew House Amendment No. 1 and repassed Senate Bill No. 2479 on third and final consideration.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2519. The House nonconcurred in Senate Amendments Nos. 1 and 2.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2553. The House nonconcurred in Senate Amendments Nos. 3 and 4.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2915. The House refused to recede from its action and appointed a Conference Committee. The Speaker appointed the following members: Representatives Kernell, Wood and Cooper.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3336. The House nonconcurrent in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3454, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return House Bill No. 189. The House adopted the Conference Committee Report and made it the action of the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1249. The House refused to recede from its action in nonconcurring in Senate Amendments Nos. 1, 2 and 4. The Speaker appointed a Conference Committee composed of Representatives McMillan, Coleman and McDaniel to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 1249.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 1078. The House nonconcurrent in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

CALENDAR NO. 1

Senate Bill No. 3159 -- Sexual Offenses -- Enacts the "Tennessee Serious and Violent Sex Offender Monitoring Act". Amends TCA Title 28; Title 34; Title 38; Title 39 and Title 40.

On motion, Senate Bill No. 3159 was made to conform with **House Bill No. 3182**.

On motion, House Bill No. 3182, on same subject, was substituted for Senate Bill No. 3159.

On motion of Senator Person, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3182** passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 3302 -- Telecommunications -- Enacts the "Assistive Telecommunications Device Distribution Program Renovation Act". Amends TCA Title 65, Chapter 21.

On motion, Senate Bill No. 3302 was made to conform with **House Bill No. 3406**.

On motion, House Bill No. 3406, on same subject, was substituted for Senate Bill No. 3302.

Thereupon, **House Bill No. 3406** passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

Speaker pro tempore Haynes moved that **Senate Bill No. 3326** be moved eighteen places down on the calendar for today, which motion prevailed.

Speaker pro tempore Haynes moved that **Senate Bill No. 3342** be moved seven places down on the calendar for today, which motion prevailed.

Senate Bill No. 3434 -- Bond Issues -- Authorizes issuance of bonds to fund state projects.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting in its entirety sub-section (1) from Section 4 of the printed bill and substituting a new sub-section (1) to read:

(1) Department of Finance and Administration in the amount of two hundred sixty-nine million four hundred thousand dollars (\$269,400,000) and expended for the purposes of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvement, betterments and extraordinary repairs to existing structures, and further expressly providing for the making of grants to governmental entities and/or to Memphis Biotech Foundation, a not-for-profit organization located in Memphis. Such grants so identified and approved are determined to be for a public purpose.

On motion, Amendment No. 1 was adopted.

Senator Henry moved that **Senate Bill No. 3434**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 3438 -- Hospitals and Health Care Facilities -- Lowers annual regulatory fee paid to the Department of Health for homes for the aged with five beds or less from \$600 to \$200. Amends TCA Title 68.

On motion, Senate Bill No. 3438 was made to conform with **House Bill No. 3471**.

On motion, House Bill No. 3471, on same subject, was substituted for Senate Bill No. 3438.

Thereupon, **House Bill No. 3471** passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland and Trail--28.

A motion to reconsider was tabled.

Senate Bill No. 3456 -- Appropriations -- Authorizes appropriations to exceed estimated growth in state's economy. Amends TCA Title 9, Chapter 4, Part 52.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting in its entirety Section 1 of the printed bill and by substituting a new Section 1 to read as follows:

SECTION 1. Tennessee Code Annotated, Section 9-4-5203(e), is amended by adding the following language as a new, appropriately designated subdivision:

(12) The index of appropriations from state tax revenues for the 2003-2004 fiscal year may exceed the index of estimated growth in the state's economy by two hundred seventy-five million dollars (\$275,000,000) or two and ninety-one hundredths percent (2.91%).

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 3456**, as amended, passed its third and final consideration by the following vote:

Ayes 22
Noes 4

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Trail and Williams--22.

Senators voting no were: Bryson, Miller, Norris and Person.

A motion to reconsider was tabled.

Senator Burks moved that **Senate Bill No. 2987** be moved one place down on the calendar for today, which motion prevailed.

Senator Cooper moved that **Senate Bill No. 3297** be placed on the calendar for Friday, May 21, 2004, which motion prevailed.

Senator Burks moved that **Senate Bill No. 2987** be placed on the calendar for Friday, May 21, 2004, which motion prevailed.

Senate Bill No. 3342 -- Codes -- Increases fees for inspection of electrical services. Amends TCA Title 68, Chapter 102, Part 1.

On motion, Senate Bill No. 3342 was made to conform with **House Bill No. 2931**.

On motion, House Bill No. 2931, on same subject, was substituted for Senate Bill No. 3342.

On motion of Senator Cooper, Amendment No. 1 was withdrawn.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 2931** passed its third and final consideration by the following vote:

Ayes 27
Noes 1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Graves, Harper, Haynes, Henry, Herron, Jackson, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail and Williams--27.

Senator voting no was: Fowler--1.

A motion to reconsider was tabled.

Senator Henry moved that **Senate Bill No. 3434**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 3504 -- Gatlinburg -- Subject to local approval, revises charter. Amends Chapter 84 of the Private Acts of 1945.

On motion, Senate Bill No. 3504 was made to conform with **House Bill No. 3607**.

On motion, House Bill No. 3607, on same subject, was substituted for Senate Bill No. 3504.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Section 4 of Chapter 84 of the Private Acts of 1945; as amended by Chapter 124 of the Private Acts of 1947, Chapter 668 of the Private Acts of 1947, Chapter 811 of the Private Acts of 1949, Chapter 612 of the Private Acts of 1951, Chapter 21 of the Private Acts of 1955, Chapter 328 of the Private Acts of 1955, Chapter 50 of the Private Acts of 1961, Chapter 150 of the Private Acts of 1977, Chapter 19 of the Private Acts of 1989, Chapter 232 of the Private Acts of 1992, and any other acts amendatory thereto, is further amended by adding the following paragraph to Corporate Powers:

(35)(A) To authorize the City to have and operate a program of inspection of overnight tourist accommodations including but not limited to chalets and cabins which are not otherwise inspected by the State of Tennessee for safety issues such as compliance with fire codes and other life safety issues. The City is authorized to impose a tourist residency fee upon the owners of such accommodations to defer the cost of the program of inspection which shall be established by ordinance.

(B) The fee imposed pursuant to subdivision (A) by the City shall be in addition to all other taxes levied or fees imposed or authorized to be levied or imposed whether in the form of excise, license, or privilege taxes.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Gatlinburg. Its approval or nonapproval shall be

proclaimed by the presiding officer of municipal legislative body of the City of Gatlinburg and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3607**, as amended, passed its third and final consideration by the following vote:

Ayes	27
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail and Williams--27.

A motion to reconsider was tabled.

Senate Bill No. 2092 -- Lottery, Corporation -- Removes requirements that retailer contracts be renewable annually. Amends TCA Title 4, Chapter 51.

On motion, Senate Bill No. 2092 was made to conform with **House Bill No. 2156**.

On motion, House Bill No. 2156, on same subject, was substituted for Senate Bill No. 2092.

On motion of Senator Cohen, Amendment No. 1 was withdrawn.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting Section 5 of the bill as amended and substituting instead the following:

SECTION 5. Tennessee Code Annotated, Title 4, Chapter 51, Part 1, is amended by adding the following as a new, appropriately designated section:

4-51-1____. The Tennessee Education Lottery Corporation shall formulate and implement a plan, in cooperation with the Tennessee Bureau of Investigation, for the Tennessee lottery's participation in the state's AMBER ALERT program via on-line lottery ticket terminals and all other appropriate media and technology at the corporation's disposal. The Tennessee Education Lottery Corporation shall report its progress in implementing the state's AMBER ALERT network within the framework of the Tennessee lottery to the general assembly no later than February 1, 2005.

SECTION 6. Sections 1, 2 and 5 of this act shall take effect upon becoming a law, the public welfare requiring it. Section 3 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall only apply to lottery retailer applications submitted, and lottery retailer contracts entered into, on and after such date. Section 4 of this act shall take

effect July 1, 2004, the public welfare requiring it, and shall only apply to tickets or shares sold on and after such date.

On motion, Amendment No. 2 was adopted.

Senator Bryson moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 4-51-124, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) All records and information in the possession of the corporation are open for inspection by members of the public unless otherwise provided by state law. The following records or information in the possession of the corporation shall be treated as confidential and shall be exempt from the provisions of § 10-7-503:

(1) Trade secrets, as such term is defined in § 47-25-1702;

(2) Security measures, systems, or procedures;

(3) Security reports;

(4) Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda; provided, that such information shall be available for public inspection after the completion of evaluation of such proposals by the corporation. Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to such bids; provided, that such information shall be available for public inspection after the completion of evaluation of such bids by the corporation. Internal audit reviews of the corporation including any documentation and memoranda relating to such audits; provided, that such information shall be available for public inspection after finalization of such audits by the corporation;

(5)(A) The following records or information of an employee of the corporation in the possession of the corporation in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public: unpublished telephone numbers; bank account information; social security number; driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job; and the same information of immediate family members or household members;

(B) Information made confidential by this subdivision shall be redacted wherever possible and nothing in this subdivision shall be

used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information;

(C) Nothing in this subdivision shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions;

(D) Nothing in this subdivision shall be construed to close any personnel records of an employee of the corporation which are currently open under state law;

(E) Nothing in this subdivision shall be construed to limit access to information made confidential under this subdivision, when the employee expressly authorizes the release of such information;

(6) Information obtained pursuant to investigations which is otherwise confidential;

(7) Identifying information obtained from prize winners, including, but not limited to, home and work addresses, telephone numbers, social security numbers, and any other information that could reasonably be used to locate the whereabouts of an individual; provided, that:

(A) The corporation shall disclose any relevant information to a claimant agency pursuant to Part 2 of this chapter necessary to establish or enforce a claim against a debtor as defined in Part 2 of this chapter;

(B) The corporation may disclose a lottery prize winner's name, home state, hometown, and, if authorized by the prize winner, any other information for marketing, advertising, or promotional purposes; and

(C) The corporation shall disclose any information not subject to the provisions of subdivisions (1)-(4) or (6), that is otherwise necessary to assist any federal, state, or local entity in the performance of its statutory or regulatory duties; and

(8) Medical records or medical information of an employee of the corporation, and medical records or information of family members of an employee of the corporation, in possession of the corporation shall be treated as confidential and shall not be open for inspection by members of the public.

Meetings of the corporation shall be open to the public pursuant to Title 8, Chapter 44, Part 1; provided, that portions of meetings devoted to discussing information deemed confidential pursuant to this section or deemed confidential pursuant to the provisions of Title 10, Chapter 7, Part 5, are exempt from the provisions of Title 8, Chapter 44, Part 1.

AND FURTHER AMEND by adding in the effective date section of the bill as amended the following language concerning the section added by this amendment:

SECTION ____ shall take effect upon becoming a law, the public welfare requiring it.

MR. SPEAKER WILDER RESUMES CHAIR

Mr. Speaker Wilder resumed the Chair.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 3

AMEND by deleting the word "and" at the end of subsection (a)(7), as amended, of the new section which amends Tennessee Code Annotated, Section 4-51-124; by changing the period at the end of subsection (a)(8) of such section to a semi-colon and adding the word "and"; and by adding the following language as a new subsection (a)(9) to such section:

(9) All information relative to the hiring or retention of the chief executive officer or president.

Pursuant to Rule 39(3), Amendment No. 1 to Amendment No. 3 was adopted by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Trail and Williams--28.

On motion, Amendment No. 3, as amended, was adopted.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-51-115(g)(3), is amended by deleting the word "annually".

SECTION 2. Tennessee Code Annotated, Section 4-51-111(b), is amended by deleting the first sentence of subdivision (2) and by substituting instead the following:

On or before the fifteenth day of the of the first month of each quarter, the corporation shall transfer to the state treasury, for credit to the lottery for education account, an amount representing an estimate of the net lottery proceeds for the immediately preceding quarter. Any additional transfers required to reconcile the amount of the net lottery proceeds transferred on the fifteenth day of the month shall be completed by the last business day of the month following the end of the quarter.

SECTION 3. Tennessee Code Annotated, Section 4-51-113(g), is amended by deleting the language "contract may pay" and by substituting instead the language "contract, or an officer, director or employee of such vendor or applicant, or a member of such officer's, director's or employee's immediate family residing in the same household, shall pay".

SECTION 4. Tennessee Code Annotated, Section 4-51-115(h), is amended by deleting the words "retailer shall pay" and by substituting instead the language "retailer, or an officer, director or employee of such retailer or applicant, or a member of such officer's, director's or employee's immediate family residing in the same household, shall pay".

SECTION 5. Tennessee Code Annotated, Section 4-51-115(f)(2)(B), is amended by deleting the language "any felony involving gambling or any misdemeanor involving" and by substituting instead the language "any criminal offense involving".

SECTION 6. Tennessee Code Annotated, Section 4-51-123(c), is amended by deleting subdivision (4)(A) and by substituting instead the following:

(A) A holder of a winning cash ticket or share from any lottery game conducted by a drawing shall claim a cash prize within one hundred eighty (180) days after the drawing in which the cash prize was won or the end of the game as determined by the corporation, whichever is later. If a multistate or multisovereign lottery game requires, by rule or regulation, a period of time less than one hundred eighty (180) days for redemption of a winning ticket, such period shall apply for that lottery game.

SECTION 7. Sections 1, 2, 3 and 4 of this act shall take effect upon becoming a law, the public welfare requiring it. Section 5 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall only apply to lottery retailer applications submitted, and lottery retailer contracts entered into, on and after such date. Section 6 of this act shall take effect July 1, 2004, the public welfare requiring it, and shall only apply to tickets or shares sold on and after such date.

Senator Cohen moved that **House Bill No. 2156**, as amended, be moved three places down on the calendar for today, which motion prevailed.

Senator Haynes moved that **House Bill No. 3591** be considered next, out of order, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 3591 -- Food and Food Products -- Exempts from food service establishment requirements occasional sales of food by senior citizens community centers that are less than 125 hours in duration. Amends TCA Section 68-14-302(6).

Senator Haynes moved to lift from the table a motion to reconsider on **House Bill No. 3591**, which motion prevailed.

Senator Haynes moved that the Senate reconsider its action in passing **House Bill No. 3591**, which motion prevailed.

Senator Haynes moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 3591**, which motion prevailed.

Senator Haynes moved that Amendment No. 1 to **House Bill No. 3591** be withdrawn, which motion prevailed.

Senator Haynes moved that the Senate reconsider its action in adopting Amendment No. 2 to **House Bill No. 3591**, which motion prevailed.

Senator Haynes moved that Amendment No. 2 to **House Bill No. 3591** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 3591** passed its third and final consideration by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

Senate Bill No. 2328 -- Computers and Electronic Processing -- Increases from two to three nonvoting members of the information systems council; increases from one to two state employee members of the information systems council having experience in the field of information systems and selected by the state employees association. Amends TCA Title 4, Chapter 3, Part 10 and Title 4, Chapter 3, Part 55.

On motion, Senate Bill No. 2328 was made to conform with **House Bill No. 3169**.

On motion, House Bill No. 3169, on same subject, was substituted for Senate Bill No. 2328.

On motion of Senator Cohen, Amendment No. 1 was withdrawn.

On motion of Senator Cooper, Amendment No. 2 was withdrawn.

On motion of Senator Cooper, Amendment No. 3 was withdrawn.

Thereupon, **House Bill No. 3169** passed its third and final consideration by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

Senator Cohen moved that **Senate Bill No. 2973** be placed at the heel of the calendar for today, which motion prevailed.

Senator Miller moved that **Senate Bill No. 3225** be rereferred to the Committee on Calendar, which motion prevailed.

FURTHER ACTION ON SENATE BILL NO. 3434, AS AMENDED

Senator Henry moved that **Senate Bill No. 3434**, as amended, be placed at the heel of the calendar for today, which motion prevailed.

FURTHER ACTION ON HOUSE BILL NO. 2156, AS AMENDED

On motion of Senator Cohen, Amendment No. 4 was withdrawn.

On motion of Senator Cohen, Amendment No. 5 was withdrawn.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 6

AMEND by adding as a new subsection as the penultimate amendment:

SECTION ____ Tennessee Code Annotated, Section 4-51-113(g), is amended by deleting the language "contract may pay" and by substituting instead the language "contract, or an officer, director or employee of such vendor or applicant, or a member of such officer's, director's or employee's immediate family residing in the same household, shall pay".

Pursuant to Rule 39(3), Amendment No. 6 was adopted by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

Thereupon, **House Bill No. 2156**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 3326 -- Taxes -- Extends the reporting deadline of the independent tax structure study commission from on or before July 1, 2004, until on or before December 31, 2004. Amends TCA Title 67, Chapter 10, Part 1.

On motion, Senate Bill No. 3326 was made to conform with **House Bill No. 3400**.

On motion, House Bill No. 3400, on same subject, was substituted for Senate Bill No. 3326.

Thereupon, **House Bill No. 3400** passed its third and final consideration by the following vote:

Ayes 18
Noes 12

Senators voting aye were: Atchley, Burks, Clabough, Cohen, Cooper, Crutchfield, Graves, Harper, Haynes, Henry, Herron, Jackson, Kilby, Kurita, Kyle, McLeary, Trail and Mr. Speaker Wilder --18.

Senators voting no were: Bryson, Burchett, Crowe, Fowler, Ketron, McNally, Miller, Norris, Person, Ramsey, Southerland and Williams--12.

A motion to reconsider was tabled.

House Bill No. 2209 -- Criminal Offenses -- Imposes additional fines on persons convicted of drug offenses; additional fines allotted to counties with high incidents of methamphetamine prosecutions for investigation and prosecution of such cases. Amends TCA Title 8, Chapter 7, Part 3 and Title 39, Chapter 17, Part 4, as amended.

Senator Kilby moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting Section 1 and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(c), is amended by adding the language "or methamphetamine" after the word "cocaine" wherever it appears.

On motion, Amendment No. 3 was adopted.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 4

AMEND in Title 39, Chapter 17:

Change marijuana amount for "presumption of possession with intent to sell" in Tennessee drug law to "more than one ounce" and change cocaine amount for "presumption of possession with intent to sell" to "more than one gram".

Senator Kilby moved Amendment No. 4 go to the table, which motion prevailed by the following vote:

Ayes 20
Noes 6

Senators voting aye were: Atchley, Burchett, Burks, Clabough, Cooper, Crowe, Graves, Harper, Henry, Herron, Jackson, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey and Williams--20.

Senators voting no were: Cohen, Crutchfield, Dixon, Fowler, Ketron and Trail--6.

Thereupon, **House Bill No. 2209**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

NOTICE

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return House Bill No. 131, for further consideration.

BURNEY T. DURHAM,
Chief Clerk.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 131 -- Public Defenders -- Increases authorized number of assistant public defender positions. Amends TCA Title 8, Chapter 14, Part 2.

Senator Jackson moved to lift from the table a motion to reconsider on **House Bill No. 131**, which motion prevailed.

Senator Jackson moved that the Senate reconsider its action in passing **House Bill No. 131**, which motion prevailed.

Senator Jackson moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 131**, which motion prevailed.

Senator Jackson moved that Amendment No. to 1 to **House Bill No. 131** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 131** passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cooper, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

REPORT OF COMMITTEE ON CALENDAR #3

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 20, 2004: Senate Bills Nos. 3277, 3281 and 1199.

This the 20th day of May, 2004.
CROWE, Chairperson.

MOTION

Senator Kyle moved that the rules be suspended for the purpose of considering **Senate Bill No. 3277** next, out of order, which motion prevailed.

CALENDAR NO. 3

Senate Bill No. 3277 -- General Assembly -- Increases members' salary from \$16,500 to \$24,600. Amends TCA Title 3, Chapter 1, Part 1.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 3-1-107, is amended by adding the following as a new, appropriately designated subsection:

(c) For the fiscal year beginning in 2005, and for each subsequent fiscal year, the base salary fixed in subsection (a)(1) shall be adjusted to reflect the average percentage pay increase provided for state employees by the General Appropriations Act. However, any adjustments occurring during a term of the general assembly shall not take effect until the election of the next general assembly. On or before November 1 of each year, the comptroller of the treasury shall certify to the office of legislative administration such average increase in state employee's compensation during that fiscal year.

SECTION 2. Tennessee Code Annotated, Section 3-1-106(f), is amended by deleting the language "five hundred twenty-five dollars (\$525)" and substituting instead the language "one thousand dollars (\$1,000)".

SECTION 3. This act shall take effect November 2, 2004, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3277**, as amended, passed its third and final consideration by the following vote:

Ayes 17
Noes 14

Senators voting aye were: Atchley, Cohen, Cooper, Crutchfield, Dixon, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kyle, McNally, Miller, Southerland, Williams and Mr. Speaker Wilder--17.

Senators voting no were: Bryson, Burchett, Burks, Clabough, Crowe, Fowler, Graves, Kilby, Kurita, McLeary, Norris, Person, Ramsey and Trail--14.

A motion to reconsider was tabled.

CALENDAR NO. 1

House Joint Resolution No. 776 -- Memorials, Government Officials -- Urges Tennessee Student Assistance Corporation to establish four regional offices, one in each grand division and one in Shelby County, and to establish program to disseminate information concerning lottery scholarships and other forms of financial aid for higher education to interested students and parents, including academic and eligibility requirements, application procedures and forms, and seminars and workshops relative to financial planning for higher education.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all resolving clauses and by substituting instead the following:

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED THIRD GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the Tennessee Student Assistance Corporation is encouraged to consider issues related to establishing a process to disseminate and otherwise provide access to vital information concerning lottery scholarships, other scholarships, and other forms of financial aid for higher education to interested students and their parents. Such consideration should include academic and eligibility requirements, application procedures and forms, and all other pertinent information relative to scholarships and financial aid available to Tennessee students. TSAC should solicit the input of local education agencies, teachers, and parents in its review of these issues. Issues related to seminars and workshops relative to financial planning for higher education for parents, students and teachers should also be considered.

BE IT FURTHER RESOLVED, that the Tennessee Student Assistance Corporation shall report the results of its consideration of these issues to the Education Subcommittee of the House Operations Committee not later than February 1, 2005.

THURSDAY, MAY 20, 2004 -- 91ST LEGISLATIVE DAY

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be transmitted to the Executive Director of the Tennessee Student Assistance Corporation.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Joint Resolution No. 776**, as amended, was concurred in by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 117 -- Pensions and Retirement Benefits -- Renames board responsible for implementation of deferred compensation program for state agency employees as board of trustees of consolidated retirement system instead of consolidated retirement board. Amends TCA Title 8, Chapter 25, Parts 1, 3, and 5; Title 8, Chapter 27.

On motion, Senate Bill No. 117 was made to conform with **House Bill No. 245**.

On motion, House Bill No. 245, on same subject, was substituted for Senate Bill No. 117.

On motion of Senator Cooper, Amendment No. 1 was withdrawn.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 245** passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senator Crowe moved that **Senate Bill No. 2617** be placed on the calendar for Friday, May 21, 2004, which motion prevailed.

FURTHER ACTION ON SENATE BILL NO. 3434, AS AMENDED

Thereupon, **Senate Bill No. 3434**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

CALENDAR NO. 2

Senate Bill No. 51 -- Pensions and Retirement Benefits -- Increases allowable percentages of final average compensation which certain retirees may receive from Tennessee consolidated retirement system and superceded systems. Amends TCA Section 8-36-208.

On motion, Senate Bill No. 51 was made to conform with **House Bill No. 1364**.

On motion, House Bill No. 1364, on same subject, was substituted for Senate Bill No. 51.

Thereupon, **House Bill No. 1364** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 2449 -- Lottery, Scholarships and Programs -- Permits students pursuing vocational/technical training to obtain lottery scholarships if they achieve overall high school grade point average of 3.0 and 3.0 in technical preparation curriculum. Amends TCA Title 49, Chapter 4, Part 9.

On motion, Senate Bill No. 2449 was made to conform with **House Bill No. 2861**.

On motion, House Bill No. 2861, on same subject, was substituted for Senate Bill No. 2449.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Senator McNally moved that Amendment No. 2 be placed behind Amendment No. 3, which motion prevailed.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-4-907(3)(A)(i), is amended by deleting the word "and" at the end of the subdivision and replacing it with the word "or".

SECTION 2. Tennessee Code Annotated, Section 49-4-907(3)(A)(ii), is amended by deleting the subdivision in its entirety.

SECTION 3. Tennessee Code Annotated, Section 49-4-916(a)(3), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivisions accordingly.

SECTION 4. Tennessee Code Annotated, Section 49-4-916(d)(1)(A), is amended by adding the word "and" at the end of the subdivision.

SECTION 5. Tennessee Code Annotated, Section 49-4-916(d)(1)(B), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivision accordingly.

SECTION 6. Tennessee Code Annotated, Section 49-4-920(a)(5), is amended by adding the word "and" at the end of the subdivision.

SECTION 7. Tennessee Code Annotated, Section 49-4-920(a)(6), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivision accordingly.

SECTION 8. Tennessee Code Annotated, Section 49-4-902(5), is deleted in its entirety.

SECTION 9. This act shall take effect upon becoming law, the public welfare requiring it, and shall apply to students seeking financial assistance from lottery proceeds for the 2004-2005 school year and thereafter.

On motion, Amendment No. 3 was adopted.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 2861**, as amended, passed its third and final consideration by the following vote:

Ayes	25
Noes	0

Senators voting aye were: Atchley, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--25.

A motion to reconsider was tabled.

Senate Bill No. 214 -- Health Care -- Increases revenues earmarked and paid into traumatic brain injury fund administered by Department of Health. Amends TCA Title 68, Chapter 55, Part 3.

On motion, Senate Bill No. 214 was made to conform with **House Bill No. 779**.

On motion, House Bill No. 779, on same subject, was substituted for Senate Bill No. 214.

Thereupon, **House Bill No. 779** passed its third and final consideration by the following vote:

Ayes	24
Noes	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kurita, Kyle, McNally, Miller, Norris, Person, Ramsey, Trail and Mr. Speaker Wilder--24.

Senator voting no was: Cooper--1.

A motion to reconsider was tabled.

Senate Bill No. 962 -- Taxes, Personal Property -- Changes assessment and taxation of leased personal property from lessees to lessors. Amends TCA Title 67.

On motion, Senate Bill No. 962 was made to conform with **House Bill No. 235**.

On motion, House Bill No. 235, on same subject, was substituted for Senate Bill No. 962.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following language as a new section:

Section 67-6-388. Notwithstanding the provisions of this chapter or any other law to the contrary, there shall be an exemption from sales and use tax otherwise imposed on the gross proceeds of motor vehicle leases for insurance proceeds paid pursuant to a damage settlement by an insurance company to the owner of a leased passenger motor vehicle where that vehicle has sustained damage that renders the vehicle a salvage vehicle, nonrepairable vehicle or flood vehicle, and the owner transfers title to such damaged vehicle to the insurance company.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 235**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Dixon, Fowler, Graves, Harper, Haynes, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

Senator voting no was: Herron--1.

A motion to reconsider was tabled.

Senate Bill No. 1907 -- Pensions and Retirement Benefits -- Permits state employees and certain teachers on educational leave of absence to establish retirement credit for leave periods. Amends TCA Section 8-34-606.

On motion, Senate Bill No. 1907 was made to conform with **House Bill No. 1972**.

On motion, House Bill No. 1972, on same subject, was substituted for Senate Bill No. 1907.

On motion of Senator Atchley, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1972** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 2726 -- Alcoholic Beverages -- Includes peninsula gated community having golf course, tennis courts, equestrian facility and other amenities located in Monroe and Loudon counties in definition of premier type tourist resort for purpose of consumption of alcoholic beverages on the premises. Amends TCA Section 57-4-102.

On motion, Senate Bill No. 2726 was made to conform with **House Bill No. 2512**.

On motion, House Bill No. 2512, on same subject, was substituted for Senate Bill No. 2726.

On motion of Senator Cohen, Amendment No. 1 was withdrawn.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-4-102(24), is amended by adding the following language as new subdivisions as follows and by redesignating present subdivision (O) as subdivision (S):

(O) A nine-hundred-sixty-acre peninsula gated community located on a lake with ten (10) miles of shoreline, and which contains all of the following characteristics. Such facility:

- (i) Has an eighteen-hole golf course and tennis courts;
- (ii) Has a club house, restaurant, lounge, fitness center, and swimming pool;
- (iii) Maintains a community garden and community and neighborhood docks and boat ramp;
- (iv) Has an equestrian facility with extensive riding trails;
- (v) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in two counties, one county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000) and the other county having a population of not less than thirty-nine thousand fifty (39,050), nor more than thirty-nine thousand one hundred fifty (39,150), both according to the 2000 federal census or any subsequent federal census.

(P) A facility which contains all the following characteristics. Such facility:

- (i) Has resort lodge condominiums, homes and vacation cottages;
- (ii) Has an eighteen-hole golf course and tennis courts with a pro shop;
- (iii) Has a swimming pool;
- (iv) Has rock climbing, hiking and biking trails;
- (v) Has a full service spa;
- (vi) Has banquet and dining services and a business service center;
- (vii) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(viii) Is located in a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census.

(Q) It is lawful for any establishment located in a premier type tourist resort as defined in § 67-6-103(a)(3)(B)(iii), which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103.

(R) It is lawful for any establishment located in a municipality:

(i) which has an approved Tourist Development Zone as set forth in Tennessee Code Annotated, Title 7, Chapter 88, Part 1;

(ii) has an AA minor league baseball team; and

(iii) is located in a county with an amusement park, a ski resort, and a National Park,

which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103.

SECTION 2. Tennessee Code Annotated, Section 57-4-101(c)(1), is amended by adding the following language after the language "people at tables":

" , except in central business improvement districts located in counties having a population of eight hundred thousand (800,000) or more according to the 2000 federal census or any subsequent federal census where such restaurants shall have a seating capacity of at least twenty-four (24) people".

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 2512**, as amended, passed its third and final consideration by the following vote:

Ayes	19
Noes	3
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crutchfield, Dixon, Graves, Harper, Haynes, Henry, Ketron, Kurita, McLeary, McNally, Person, Ramsey and Mr. Speaker Wilder--19.

Senators voting no were: Burks, Herron and Kilby--3.

Senator present and not voting was: Jackson--1.

A motion to reconsider was tabled.

Senate Bill No. 2114 -- Lottery -- Changes lottery scholarship eligibility requirements for graduates of home school programs and non-eligible high schools from composite ACT score of 23 to composite ACT score of 19. Amends TCA Title 49, Chapter 4, Part 9.

On motion, Senate Bill No. 2114 was made to conform with **House Bill No. 2134**.

On motion, House Bill No. 2134, on same subject, was substituted for Senate Bill No. 2114.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Senator Cohen moved that the Senate reconsider its action in withdrawing Amendment No. 1 to **House Bill No. 2134**, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all provisions of the printed bill following the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 49-4-902(5), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(5) "College core curriculum" means the high school courses required by the Tennessee board of regents that must be taken to qualify for admission into one of the universities it governs.

SECTION 2. Tennessee Code Annotated, Section 49-4-902(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

(6) "Continuous enrollment" means a student is enrolled in the fall and spring semesters of a single academic year. Enrollment in summer semester or inter-session terms is not required.

SECTION 3. Tennessee Code Annotated, Section 49-4-902(7), is amended by deleting the word "or" at the end of subdivision (A), deleting subdivision (B) and substituting instead the following subdivisions:

(B) A private secondary school that is located in Tennessee and is approved by the State Board of Education as a Category 1, 2 or 3 secondary school in accordance with the applicable rules and regulations;

(C) A secondary school operated by the United States Department of Defense on a military base that is located in whole or in part in Tennessee;

(D) An out-of-state public secondary school located in a county bordering Tennessee that Tennessee residents are authorized to attend under § 49-6-3108; or

(E) An out-of-state boarding school accredited by a regional accrediting association that is attended by a bona fide Tennessee resident.

SECTION 4. (a) Tennessee Code Annotated, Section 49-4-905(b), is amended by deleting the language "graduated from a Tennessee high school," and by substituting instead the language "graduated from an eligible high school, graduated from a high school located in Tennessee that is not an eligible high school,".

(b) Tennessee Code Annotated, Section 49-4-905(b), is further amended by deleting the date "January 1, 2004" and by substituting instead the date "December 1, 2003".

SECTION 5. Tennessee Code Annotated, Section 49-4-905, is amended by redesignating the present subsection (b) to be subdivision (b)(2) and by adding a new subdivision (b)(1) as follows:

(1) Notwithstanding anything in this part to the contrary, any person who, after December 1, 2003, enrolled in an eligible postsecondary institution in lieu of graduating from an eligible high school, and is otherwise qualified, shall be eligible for a Tennessee HOPE scholarship.

SECTION 6. Tennessee Code Annotated, Section 49-4-905, is amended by deleting subsection (c) in its entirety.

SECTION 7. Tennessee Code Annotated, Section 49-4-907, is amended by deleting the date "January 1, 2004" and by substituting instead the date "December 1, 2003".

SECTION 8. Tennessee Code Annotated, Section 49-4-907(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) Be admitted to and enroll in an eligible postsecondary institution no later than the fall semester immediately following graduating from high school; and

SECTION 9. Tennessee Code Annotated, Section 49-4-908, is amended by deleting the date "January 1, 2004" wherever it appears and by substituting instead the date "December 1, 2003".

SECTION 10. Tennessee Code Annotated, Section 49-4-908(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) Be admitted to and enroll in an eligible postsecondary institution no later than the fall semester immediately following completing high school in a Tennessee home school program, obtaining a GED, or graduating from high school.

SECTION 11. Tennessee Code Annotated, Section 49-4-908(2)(A), is amended by deleting the number "23" and by substituting instead the number "19" and by deleting the number "1060" and by substituting instead the number "890".

SECTION 12. (a) Tennessee Code Annotated, Section 49-4-909(a), is amended by deleting the date "January 1, 2004" and by substituting instead the date "December 1, 2003".

(b) Tennessee Code Annotated, Section 49-4-909(a), is further amended by deleting the language "who graduates from a Tennessee high school," and by

substituting instead the language "who graduates from an eligible high school, who graduates from a high school located in Tennessee that is not an eligible high school,".

SECTION 13. Tennessee Code Annotated, Section 49-4-911, is amended by redesignating present subsection (b) to be subsection (c) and by adding a new subsection (b) as follows:

(b) A student enrolled in an undergraduate degree program required to be more than one hundred twenty (120) semester hours in length shall achieve a cumulative grade point average of 3.0 at the end of the semester in which the student has attempted one hundred twenty (120) semester hours to continue to receive the scholarship.

SECTION 14. Tennessee Code Annotated, Section 49-4-916, is amended by deleting the date "January 1, 2004" wherever it appears and by substituting instead the date "December 1, 2003".

SECTION 15. Tennessee Code Annotated, Section 49-4-918(a), is amended by deleting the language "graduates from a Tennessee high school," and by substituting instead the language "graduates from an eligible high school, graduates from a high school located in Tennessee that is not an eligible high school,".

SECTION 16. Tennessee Code Annotated, Section 49-4-920(a)(4), is amended by deleting the date "January 1, 2004" and by substituting instead the date "December 1, 2003".

SECTION 17. Tennessee Code Annotated, Section 49-4-922, is amended by deleting the words "under this part".

SECTION 18. Tennessee Code Annotated, Title 49, Chapter 4, Part 9, is amended by adding the following as a new section:

§ 49-4-926. (a) Notwithstanding any provision of this part to the contrary, a student who is a Tennessee citizen and a dependent child of a member of the armed forces or the Tennessee National Guard engaged in active military service of the United States shall be eligible for a Tennessee HOPE scholarship as an entering freshman, if such student meets all eligibility requirements for such scholarship except that, while the parent was stationed on active military duty outside of Tennessee, the student did not reside in Tennessee for one (1) year immediately preceding the date of application for financial assistance and the student did not graduate from an eligible high school as defined in § 49-4-902(7), graduate from a Tennessee high school that is not an eligible high school, complete high school in a Tennessee home school program, or obtain a GED from a state-approved institution or organization. If such student graduated from a high school outside of Tennessee, then such high school shall be considered an eligible high school for purposes of determining the student's eligibility for a scholarship, if the school was operated by the government of the United States, accredited by the appropriate regional accrediting association for the state in which the school is located, or accredited by an accrediting association recognized by the foreign nation in which the school is located. If such student graduated from a high school outside of Tennessee that does not meet the requirements of this section to be considered an eligible high school,

completed high school in a home school program, or obtained a GED, then such student shall meet the eligibility requirements for Tennessee HOPE scholarships for students graduating from Tennessee high schools that are not eligible high schools.

(b) As used in this section:

(1) "Dependent child" means a natural or adopted child or stepchild whom such parent claims as a dependent for federal income tax purposes; provided that such child is under twenty-one (21) years of age and resides in another state or nation only while such student's parent is engaged in active military service of the United States or on full-time national guard duty; and

(2) "Tennessee National Guard" means any federally recognized unit of the Tennessee Army and Air National Guard.

(c) This section shall apply only to dependent children of members of the armed forces or Tennessee National Guard whose home of record at the time of entry into military service was determined to be Tennessee.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to students seeking financial assistance from lottery proceeds for the 2004-2005 school year and thereafter.

On motion, Amendment No. 1 was adopted.

Senator Miller moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The Tennessee Student Assistance Corporation is authorized to develop an alternative application form which may be used by students not applying for the supplemental award under Section 49-4-915 or the Tennessee HOPE access grant under Section 49-4-920.

Senator Cohen moved Amendment No. 2 go to the table, which motion prevailed by the following vote:

Ayes	20
Noes	8

Senators voting aye were: Atchley, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Herron, Jackson, Kilby, Kurita, Kyle, McLeary, McNally, Person and Trail--20.

Senators voting no were: Bryson, Burchett, Crowe, Henry, Ketron, Miller, Ramsey and Southerland--8.

Senator Cohen moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 49-4-907(3)(A)(i), is amended by deleting the word "and" at the end of the subdivision and replacing it with the word "or".

SECTION _____. Tennessee Code Annotated, Section 49-4-907(3)(A)(ii), is amended by deleting the subdivision in its entirety.

SECTION _____. Tennessee Code Annotated, Section 49-4-916(a)(3), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivisions accordingly.

SECTION _____. Tennessee Code Annotated, Section 49-4-916(d)(1)(A), is amended by adding the word "and" at the end of the subdivision.

SECTION _____. Tennessee Code Annotated, Section 49-4-916(d)(1)(B), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivision accordingly.

SECTION _____. Tennessee Code Annotated, Section 49-4-920(a)(5), is amended by adding the word "and" at the end of the subdivision.

SECTION _____. Tennessee Code Annotated, Section 49-4-920(a)(6), is amended by deleting the subdivision in its entirety and by renumbering the subsequent subdivision accordingly.

AND FURTHER AMEND by deleting Section 1 of the bill as amended and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-4-902(5), is deleted in its entirety.

On motion, Amendment No. 3 was adopted.

Senator Fowler declared Rule 13 on **House Bill No. 2134**.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting Section 11 of the bill as amended and by substituting instead the following:

SECTION 11. (a) Tennessee Code Annotated, Section 49-4-907(3)(B), is amended by deleting the number "19" and by substituting instead the number "23" and by deleting the number "890" and by substituting instead the number "1,060".

(b) Tennessee Code Annotated, Section 49-5-908(2)(B), is amended by deleting the number "525" and by substituting instead the number "550", by deleting

the number "19" and by substituting instead the number "23" and by deleting the number "890" and by substituting instead the number "1,060".

AND FURTHER AMEND by deleting the last section of the bill as amended (the effective date section) and by substituting instead the following:

SECTION ___. (a) Section 11 of this act shall take effect January 1, 2005, the public welfare requiring it, and shall apply to students seeking financial assistance from lottery proceeds for the 2005-2006 school year and thereafter.

(b) All other sections of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to students seeking financial assistance from lottery proceeds for the 2004-2005 school year and thereafter.

Senator Graves moved Amendment No. 4 go to the table, which motion failed by the following vote:

Ayes 8
Noes 22

Senators voting aye were: Burks, Dixon, Graves, Harper, Herron, Jackson, Kilby and Kurita--8.

Senators voting no were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Haynes, Henry, Ketron, Kyle, McLeary, McNally, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--22.

Senator Graves moved that **House Bill No. 2134**, as amended, be rereferred to the Committee on Education, which motion failed by the following vote:

Ayes 11
Noes 18
Present, not voting . . . 1

Senators voting aye were: Burks, Dixon, Graves, Harper, Herron, Jackson, Kilby, Kurita, Kyle, Miller and Trail--11.

Senators voting no were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Haynes, Ketron, McLeary, McNally, Norris, Person, Ramsey, Southerland and Williams--18.

Senator present and not voting was: Henry--1.

On motion, Amendment No. 4 was adopted by the following vote:

Ayes 21
Noes 10

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Haynes, Henry, Ketron, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--21.

Senators voting no were: Burks, Dixon, Graves, Harper, Herron, Jackson, Kilby, Kurita, Kyle and Trail--10.

Senator Henry moved to amend as follows:

AMENDMENT NO. 5

AMEND by adding the following new sections immediately preceding the last section of the bill as amended and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 49-4-902, is amended by adding the following as a new subdivision (32) and renumbering the subsequent subdivisions accordingly:

(32) Weighted grade point average means grade point average on a 4.0 scale calculated with additional points awarded for advanced placement, honors, or other similar courses.

SECTION _____. Tennessee Code Annotated, Section 49-4-916(a)(2), is amended by deleting the word "unweighted" and by substituting instead the word "weighted".

SECTION _____. Tennessee Code Annotated, Section 49-4-916(a)(3), is amended by deleting the word "unweighted" and by substituting instead the word "weighted".

SECTION _____. Tennessee Code Annotated, Section 49-4-916(d)(1)(A), is amended by deleting the word "unweighted" and by substituting instead the word "weighted".

SECTION _____. Tennessee Code Annotated, Section 49-4-916(d)(1)(B), is amended by deleting the word "unweighted" and by substituting instead the word "weighted".

On motion, Amendment No. 5 was adopted.

Thereupon, **House Bill No. 2134**, as amended, passed its third and final consideration by the following vote:

Ayes 20
Noes 9

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Crowe, Crutchfield, Fowler, Haynes, Henry, Ketron, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--20.

Senators voting no were: Burks, Dixon, Graves, Herron, Jackson, Kilby, Kurita, Kyle and Trail--9.

A motion to reconsider was tabled.

NOTICES

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1093. The House refused to recede from its action in nonconcurring in Senate Amendments Nos. 1 and 2. The Speaker appointed a Conference Committee composed of Representatives Lois DeBerry, Maddox and Kent to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 1093.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2166. The House refused to recede from its action in nonconcurring in Senate Amendment No. 1. The Speaker appointed a Conference Committee composed of Representatives Mike Turner, Marrero and Pleasant to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 2166.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return House Bill No. 2762, for further consideration.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2636. The House refused to recede from its action in nonconcurring in Senate Amendment No. 3. The Speaker appointed a Conference Committee composed of Representatives Newton, Briley and Coleman to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 2636.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 374, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return Senate Bill No. 2152. The House moved to lift the tabling motion on Senate Bill No. 2152. The House reconsidered Senate Bill No. 2152; reconsidered Amendments Nos. 2 and 3; withdrew Amendments Nos. 2 and 3; adopted Amendments Nos. 5, 6 and 7 and repassed Senate Bill No. 2152 on third and final consideration, as amended.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2960. The House refused to recede from its action in nonconcurring in Senate Amendment No. 2. The Speaker appointed a Conference Committee composed of Representatives Lynn, Maddox and Winningham to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 2960.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3128. The House nonconcurred in Senate Amendment No. 2.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3193, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3427. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

**SENATE
MESSAGE CALENDAR #3**

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 20, 2004: Senate Bills Nos. 601, 2915 and 3454; House Bills Nos. 189, 1249, 2519, 2553, 3186 and 3336; House Joint Resolution No. 1078; House Bills Nos. 2636, 2960, 2166, 1093, 2762, 3427 and 3128; and Senate Bills Nos. 3193 and 374.

MOTION

Senator Crowe moved that Rule 19 be suspended for the purpose of considering Message Calendar No. 3 next, which motion prevailed.

SENATE MESSAGE CALENDAR NO. 3

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 601 -- Health Care -- Grants immunity to certain health care professionals and practices and health care facilities from vicarious liability for acts or omissions of resident, intern or fellow.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-205, is amended by adding the following new subsection (c) and by redesignating present subsection (c) as subsection (d):

(c) No teaching institution shall be held vicariously liable for any act or omission of an intern, resident or fellow in the course of a training program of a medical school owned or operated by the State of Tennessee under a legal theory of implied or apparent agency, ostensible agency, or any other theory of vicarious liability other than the legal doctrine of respondeat superior. In determining whether the doctrine of respondeat superior is applicable, the fact that the intern, resident or fellow was in the teaching institution and providing treatment or services or otherwise caring for patients and was following the institution's bylaws, rules and regulations, policies, procedures, and protocols is insufficient, standing alone, to prove that the intern, resident or fellow was acting as the institution's agent.

SECTION 2. Tennessee Code Annotated, Section 68-11-205, is further amended by adding the following new definitions, to be appropriately designated, to present subsection (c), redesignated as subsection (d) by this act:

() "Intern", "resident", or "fellow" mean any person receiving instruction through and acting within the scope of a training program of a medical school owned or operated by the State of Tennessee and who, in such capacity, receives compensation payable by the State of Tennessee and is entitled to individual immunity as an employee of the State of Tennessee pursuant to Tennessee Code Annotated, § 9-8-307(h).

() "Teaching institution" means a hospital or mental health hospital, operating within the scope of an affiliation agreement with any medical school owned or operated by the State of Tennessee, and shall further include but not be limited to any sole proprietorship, partnership, corporation, limited liability company, or other public or private entity that owns, controls, or is affiliated with any such institution.

SECTION 3. This act shall take effect on July 1, 2004, the public welfare requiring it and shall apply to all causes of actions arising on or after such date.

Senator Kyle moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 601**, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-205, is amended by adding the following new subsection (c) and by redesignating present subsection (c) as subsection (d):

(c) No teaching institution shall be held vicariously liable for any act or omission of an intern, resident or fellow in the course of a training program of a medical school owned or operated by the State of Tennessee under a legal theory of implied or apparent agency, ostensible agency, or any other theory of vicarious liability except actual agency. In determining whether the intern, resident or fellow was an actual agent of the teaching institution, the fact that such intern, resident or fellow was in the teaching institution and providing treatment or services or otherwise caring for patients and was following the institution's bylaws, rules and regulations, policies, procedures, and protocols is insufficient, standing alone, to prove that the intern, resident or fellow was acting as the institution's actual agent.

SECTION 2. Tennessee Code Annotated, Section 68-11-205, is further amended by adding the following new definitions, to be appropriately designated, to present subsection (c), redesignated as subsection (d) by this act:

() "Intern", "resident", or "fellow" mean any person receiving instruction through and acting within the scope of a training program of a medical school owned or operated by the State of Tennessee and who, in such capacity, receives compensation payable by the State of Tennessee and is entitled to individual

immunity as an employee of the State of Tennessee pursuant to Tennessee Code Annotated, § 9-8-307(h).

() "Teaching institution" means a hospital or mental health hospital, operating within the scope of an affiliation agreement with any medical school owned or operated by the State of Tennessee, and shall further include but not be limited to any sole proprietorship, partnership, corporation, limited liability company, or other public or private entity that owns, controls, or is affiliated with any such institution.

SECTION 3. This act shall take effect on July 1, 2004, the public welfare requiring it and shall apply to all causes of actions arising on or after such date.

Senator Kyle moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 601**, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2915 -- Sunset Laws -- Deletes reference in sunset laws to terminated governmental entity, public safety committee. Amends TCA Title 4, Chapter 29.

Senator Harper moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 1 to **Senate Bill No. 2915**, which motion prevailed.

Senator Harper moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 2915**, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEE CONFERENCE COMMITTEE ON SENATE BILL NO. 2915

The Speaker announced the appointment of a Conference Committee composed of Senators Harper, Chairperson; Burks and Southerland to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No. 2915.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3454 -- Revenue, Dept. of -- Authorizes commissioner to accept credit and debit cards for payment of taxes under certain circumstances.

HOUSE AMENDMENT NO. 5

AMEND by deleting the effective date section in its entirety and substituting instead the following:

SECTION _____. This act shall take effect July 1, 2005, the public welfare requiring it.

Senator Crutchfield moved that the Senate nonconcur in House Amendment No. 5 to **Senate Bill No. 3454**, which motion prevailed.

REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL NO. 189/SENATE BILL NO. 1716

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 189 (Senate Bill No. 1716) has met and recommends that the following amendments be deleted:

House Amendment No. 2, HA 443

The Committee further recommends that the following amendment be adopted:

Senate Amendment No. 2, SA 904

/s/ Senator Jo Ann Graves
/s/ Senator James Bryson
/s/ Senator Bill Clabough
/s/ Senator Jerry Cooper
/s/ Senator Larry Trail

/s/ Representative Mike Turner
/s/ Representative Kathryn Bowers
/s/ Representative Henri Brooks
/s/ Representative Beth Harwell
/s/ Representative Sherry Jones

Senator Graves moved that the Conference Committee Report on **House Bill No. 189** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1249 -- Ethics -- Requires disclosure of consulting contracts by members of general assembly. Amends TCA Title 2, Chapter 10; Title 3 and Title 12.

Senator Trail moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 1249**, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
HOUSE BILL NO. 1249

The Speaker announced the appointment of a Conference Committee composed of Senators Trail, Chairperson; Kurita and McNally to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 1249.

Senator Burchett moved that **House Bill No. 2519** be moved two places down on the Message Calendar for today, which motion prevailed.

Mr. Speaker Wilder moved that **House Bill No. 2553** be placed at the heel of the Message Calendar for today, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 3186 -- Criminal Procedure -- Allows evidence of a defendant's prior conviction of a sex offense when the victim was less than 13 if the defendant is presently being tried for a sex crime in which the victim is less than 13, subject to Rule of Evidence 403 and the state's giving notice at least 15 days before trial or later as the court may allow for good cause. Amends TCA Title 40, Chapter 17.

Senator Burchett moved to lift from the table a motion to reconsider on **House Bill No. 3186**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in passing **House Bill No. 3186**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 3186**, which motion prevailed.

Senator Burchett moved that Amendment No. 1 to **House Bill No. 3186** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 3186** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2519 -- Firefighters -- Raises per diem payment to members of the commission on firefighting personnel standards and education from \$50.00 to \$100 per day for

assisting a local firefighting unit; removes \$300 yearly per member cap, and creates a new allowance of \$100 per diem payment plus travel costs for those attending a commission meeting. Amends TCA Title 4, Chapter 24.

Senator Burchett moved to lift from the table a motion to reconsider on **House Bill No. 2519**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in passing **House Bill No. 2519**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 2519**, which motion prevailed.

Senator Burchett moved that Amendment No. 1 to **House Bill No. 2519** be withdrawn, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in adopting Amendment No. 2 to **House Bill No. 2519**, which motion prevailed.

Senator Burchett moved that Amendment No. 2 to **House Bill No. 2519** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2519** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 3336 -- Pensions and Retirement Benefits -- Adds retired teacher to be appointed by governor to board of trustees of TCRS. Amends TCA Section 8-34-302.

Senator Herron moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 1 to **House Bill No. 3336**, which motion prevailed.

HOUSE JOINT RESOLUTION ON SENATE AMENDMENT

House Joint Resolution No. 1078 -- Highway Signs -- "James U.L. Scott Memorial Bridge", S.R. 53 in Jackson County.

Senator Burks moved to lift from the table a motion to reconsider on **House Joint Resolution No. 1078**, which motion prevailed.

Senator Burks moved that the Senate reconsider its action in concurring in **House Joint Resolution No. 1078**, which motion prevailed.

Senator Burks moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Joint Resolution No. 1078**, which motion prevailed.

Senator Burks moved that Amendment No. 1 to **House Joint Resolution No. 1078** be withdrawn, which motion prevailed.

Thereupon, **House Joint Resolution No. 1078** was concurred in by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2636 -- Drugs -- Enacts "Drug Dealer Liability Act".

Senator Miller moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 2636**, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEE CONFERENCE COMMITTEE ON HOUSE BILL NO. 2636

The Speaker announced the appointment of a Conference Committee composed of Senators Miller, Chairperson; Haynes and Kilby to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 2636.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2960 -- Education -- Requires school nurses to maintain current certification in CPR and schools to have at least one employee or volunteer who is certified in CPR. Amends TCA Section 49-5-414 and Section 49-3-359.

Senator Person moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 2960**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
HOUSE BILL NO. 2960**

The Speaker announced the appointment of a Conference Committee composed of Senators Person, Chairperson; Dixon and Kurita to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 2960.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2166 -- Real Property -- Enacts the "Neighborhood Preservation Act".

Senator Haynes moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 2166**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
HOUSE BILL NO. 2166**

The Speaker announced the appointment of a Conference Committee composed of Senators Haynes, Chairperson; Kilby and Person to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 2166.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1093 -- Education -- Requires institutions of higher education to report to law enforcement officer if they have probable cause to believe that student committed any felony or Class A misdemeanor while on campus. Amends TCA Title 49.

Senator Dixon moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 1093**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
HOUSE BILL NO. 1093**

The Speaker announced the appointment of a Conference Committee composed of Senators Dixon, Chairperson; Graves and McNally to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 1093.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2762 -- Alcoholic Beverage Commission -- Increases privilege tax for licenses; allows commission to retain money collected from licensure fees instead of such money being deposited with state treasurer. Amends TCA Section 57-3-203; Section 57-3-204; Section 57-3-206; Section 57-3-207; Section 57-3-605; Section 57-4-102 and Section 57-4-301.

Senator Henry moved to lift from the table a motion to reconsider on **House Bill No. 2762**, which motion prevailed.

Senator Henry moved that the Senate reconsider its action in passing **House Bill No. 2762**, which motion prevailed.

Senator Henry moved that the Senate reconsider its action in adopting Amendment No. 3 to **House Bill No. 2762**, which motion prevailed.

Senator Henry moved that Amendment No. 3 to **House Bill No. 2762** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2762** passed its third and final consideration by the following vote:

Ayes	21
Noes	1

Senators voting aye were: Atchley, Bryson, Clabough, Cohen, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kyle, McLeary, McNally, Ramsey, Trail and Mr. Speaker Wilder--21.

Senator voting no was: Burchett--1.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 3427 -- Election Laws -- Revises times candidates or political campaign committees who have appointed political treasurer less than one year before an election must file the initial contribution, loan and expenditure statement. Amends TCA Section 2-10-105.

Senator Burchett moved to lift from the table a motion to reconsider on **House Bill No. 3427**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in passing **House Bill No. 3427**, which motion prevailed.

Senator Burchett moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 3427**, which motion prevailed.

Senator Burchett moved that Amendment No. 1 to **House Bill No. 3427** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 3427** passed its third and final consideration by the following vote:

Ayes	27
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

A motion to reconsider was tabled.

Senator Kilby moved that **House Bill No. 3128** be placed on the calendar for Friday, May 21, 2004, which motion prevailed.

Senator Cohen moved that **Senate Bill No. 3193** be moved one place down on the calendar for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 374 -- Law Enforcement -- Enacts "General Patton Act of 2002". Amends TCA Title 4, Chapter 7, Part 1; Title 38, Chapter 8, Part 1; Title 39, Chapter 14, Part 2 and Title 44, Chapter 17, Part 4.

HOUSE AMENDMENT NO. 4

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION __. Tennessee Code Annotated, Section 39-14-212, is amended by deleting subsection (d) and substituting instead the following:

(d) Aggravated cruelty to animals is a Class E felony.

SECTION __. Tennessee Code Annotated, Section 39-14-202, is amended by deleting subsection (f) and substituting instead the following:

(f)(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

SECTION __. Notwithstanding any provision of §55-4-290 to the contrary, a sum sufficient from the special fund created pursuant to §55-4-290 shall be annually transferred to the general fund for the sole purpose of funding increased incarceration costs resulting from the provisions of this act.

Senator Cohen moved that the Senate concur in House Amendment No. 4 to **Senate Bill No. 374**, which motion prevailed by the following vote:

Ayes	26
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Jackson, Ketron, Kyle, McLeary, McNally, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 5

AMEND by inserting the following new section to immediately precede the effective date section:

SECTION _____. The provisions of this act shall not apply to any animal while that animal is being used for training, for an occupational purpose, or for hunting.

Senator Cohen moved that the Senate concur in House Amendment No. 5 to **Senate Bill No. 374**, which motion prevailed by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Haynes, Henry, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3193 -- Alcoholic Beverages -- Allows any art gallery to serve wine to patrons at no charge if such art gallery does not sell food or beverages and receives 90 percent of its revenue from the sale of artwork. Amends TCA Title 57, Chapter 4, Part 1.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 57, Chapter 4, Part 1, is amended by adding the following as new, appropriately designated sections:

57-4-1____. Any art gallery that does not sell food or beverages and that receives ninety percent (90%) of its revenue from the sale of artwork may serve wine to patrons of such art gallery without a charge. Such art gallery shall not serve wine to a patron who is intoxicated or believed to be intoxicated.

57-4-1____. (a) Notwithstanding any other statutory provision to the contrary, an entity holding a license issued pursuant to § 57-3-204 may offer without charge or cost samples of alcoholic beverages and spirits to consumers on its licensed premises subject to the following conditions:

(1) A licensee seeking to offer such samples shall notify the commission, in writing, at least ten (10) business days prior to the tasting event of such information related to the event the commission may require.

(2) The commission shall acknowledge receipt of the notification of a sampling event within five (5) days of receipt of the notification.

(3) The samples provided to consumers shall not exceed one-half ounce ($\frac{1}{2}$ oz.) in amount per product sampled and no more than four (4) different products may be offered during one (1) calendar day.

(4) Only employees holding permits issued pursuant to §§ 57-3-204(c) and 57-3-203(d), or the designated owner or manager of the licensee where such individual so satisfied the requirements of § 57-3-704(5), may participate directly in the opening, pouring, or offering of samples to consumers.

(5) Nothing in this title shall restrict any employee holding a permit issued pursuant to §§ 57-3-204(c) or 57-3-203(d) from also holding a permit issued pursuant to § 57-3-701, et seq. Nothing herein shall authorize an employee holding a permit pursuant to § 57-3-203(d) to be employed by any retailer licensed under § 57-3-204 or § 57-4-101 except for the sole purpose of participating in a tasting under this subsection.

(6) No person aged less than twenty-one (21) years may participate in such tasting event on the licensed premises.

(7) No sampling authorized under this subsection may extend beyond one (1) calendar day.

(8) Manufacturer and non-resident permit holders licensed under §§ 57-2-101, et seq., 57-3-202, or 57-3-601, et seq., may provide products to be offered for sampling or tasting only through its designated wholesaler, licensed pursuant to § 57-3-203.

(9) Employees of a manufacturer, distiller, winery or non-resident sellers permit holder may participate in a sampling or tasting under this section only if an employee or designated representative of the wholesaler authorized to distribute the product or products being distributed is also present.

(b) Subsection (a) shall have no application to a winery acting pursuant to the "Grape and Wine Law", codified as § 57-3-207.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Cohen moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3193**, which motion failed by the following vote:

Ayes	4
Noes	21

Senators voting aye were: Clabough, Cohen, Crutchfield and Henry--4.

Senators voting no were: Atchley, Bryson, Burchett, Burks, Crowe, Dixon, Fowler, Graves, Haynes, Herron, Jackson, Ketron, Kilby, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--21.

Mr. Speaker Wilder declared that the Senate therefore nonconcur in House Amendment No. 2 to **Senate Bill No. 3193**.

HOUSE AMENDMENT NO. 1

AMEND by adding the following language at the end of the amendatory language of Section 1:

Notwithstanding any other provision of law to the contrary, any art gallery permitted to serve wine under this section shall not be required to pay any fees or taxes related to the privilege of serving wine.

Senator Cohen moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3193**, which motion failed by the following vote:

Ayes	16
Noes	6

Senators voting aye were: Atchley, Bryson, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Haynes, Henry, Ketron, Kyle, McNally, Ramsey and Mr. Speaker Wilder--16.

Senators voting no were: Fowler, Graves, Herron, Person, Southerland and Trail--6.

Mr. Speaker Wilder declared that the Senate therefore nonconcur in House Amendment No. 1 to **Senate Bill No. 3193**.

CALENDAR NO. 3

Senate Bill No. 3281 -- Zoning -- Requires certain counties to promulgate zoning regulations applicable to unincorporated areas if the county is deemed to be non-compliant with state or federal air quality attainment standards. Amends TCA Title 13, Chapter 7, Part 1.

On motion, Senate Bill No. 3281 was made to conform with **House Bill No. 3216**.

On motion, House Bill No. 3216, on same subject, was substituted for Senate Bill No. 3281.

On motion of Senator Cohen, Amendment No. 1 was withdrawn.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 3216** passed its third and final consideration by the following vote:

Ayes	24
Noes	1
Present, not voting . . .	1

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kyle, McLeary, McNally, Ramsey, Trail, Williams and Mr. Speaker Wilder--24.

Senator voting no was: Southerland--1.

Senator present and not voting was: Person--1.

A motion to reconsider was tabled.

Senate Bill No. 1199 -- Game and Fish Laws -- Allows any person applying for hunting and fishing license as disabled veteran to have exemption from license fee whether application was entered before or after May 24, 2000. Amends TCA Title 70, Chapter 2.

On motion, Senate Bill No. 1199 was made to conform with **House Bill No. 1049**.

On motion, House Bill No. 1049, on same subject, was substituted for Senate Bill No. 1199.

On motion of Senator Henry, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1049** passed its third and final consideration by the following vote:

Ayes	25
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--25.

A motion to reconsider was tabled.

MESSAGE CALENDAR NO. 3

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2553 -- Taxes, Sales -- Provides for distribution to Campbell County of certain sales taxes collected in a portion of that county. Amends TCA Title 67, Chapter 6.

Senator Kilby moved that the Senate refuse to recede from its action in adopting Senate Amendments Nos. 3 and 4 to **House Bill No. 2553**, which motion prevailed by the following vote:

Ayes	26
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

MOTION

On motion of Senator Kilby, his name was added as sponsor of **Senate Bills Nos. 2457 and 3302.**

On motion, all Senators' names were added as sponsors of **Senate Bills Nos. 1206, 2277, 2357, 2520 and 3217.**

On motion of Senator Herron, his name was added as sponsor of **Senate Bills Nos. 2457 and 3019; and House Joint Resolution No. 1309.**

On motion of Senators Trail and Harper, their names were added as sponsors of **Senate Bill No. 2861.**

On motion of Senator Cohen, his name was added as sponsor of **Senate Bill No. 2976.**

On motion of Senators Southerland and Williams, their names were added as sponsors of **Senate Bill No. 3159.**

On motion of Senator Harper, her name was added as sponsor of **House Joint Resolutions Nos. 792 and 1294; and Senate Bill No. 2134.**

On motion of Senator Burks, her name was added as sponsor of **Senate Bill No. 2505.**

On motion of Senators McNally and Clabough, their names were added as sponsors of **Senate Bills Nos. 2134 and 2457.**

On motion of Senator Fowler, his name was added as sponsor of **House Joint Resolution No. 1290; and Senate Bills Nos. 1671, 2134, 2419, 2457, 2530, 2594, 2617, 2975, 2976 and 3159.**

On motion of Senator Dixon, his name was added as sponsor of **House Joint Resolutions Nos. 1287, 1293, 1294 and 1310.**

On motion of Senators Miller, McNally, Cooper, Burchett and Fowler, their names were added as sponsors of **House Joint Resolution No. 1290.**

On motion of Senators Bryson, Dixon, Herron and McNally, their names were added as sponsors of **House Joint Resolution No. 1292.**

On motion of Senator Crowe, his name was added as sponsor of **House Joint Resolutions Nos. 1296, 1300, 1301 and 1302.**

On motion of Senator Bryson, his name was added as sponsor of **House Joint Resolution No. 1298.**

On motion of Senator Kurita, her name was added as sponsor of **House Joint Resolution No. 1303; and Senate Bills Nos. 429 and 2351.**

On motion of Senator Crutchfield, his name was added as sponsor of **House Joint Resolutions Nos. 1290 and 1310.**

THURSDAY, MAY 20, 2004 -- 91ST LEGISLATIVE DAY

On motion of Senator Trail, his name was added as sponsor of **Senate Bills Nos. 429 and 2065**.

On motion of Senator Norris, his name was added as sponsor of **Senate Bill No. 429**.

On motion of Senators McNally and Graves, their names were added as sponsors of **Senate Bill No. 1681**.

On motion of Senators Williams and Crowe, their names were added as sponsors of **Senate Bill No. 1199**.

ENGROSSED BILLS

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 532; and Senate Joint Resolution No. 1206; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 429 and 1681, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 1204, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 3434, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 245, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2134, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 3471, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1049, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2831 and 2859, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1275, 2867 and 3620; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1050, 1295 and 1316; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1317, 1318 and 1319; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 1320, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1681 and 3045, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2850, 3288 and 3295; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1337 and 3517, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3158, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2860, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 672, 1147, 1148, 1151, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1176, 1177 and 1181; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 682, concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 1180, 1182, 1183, 1184, 1187, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1201, 1202, 1203 and 1204; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolution No. 269; and Senate Joint Resolutions Nos. 71, 672, 1147, 1148,

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1151, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1176, 1177 and 1181; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 625, 773, 837, 870, 890, 926, 930, 940, 957, 978, 1006, 1137, 1198, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1284, 1285 and 1286; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

May 20, 2004

The Speaker announced that he had signed the following: Senate Resolution No. 269; and Senate Joint Resolutions Nos. 71, 672, 1147, 1148, 1151, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1176, 1177 and 1181.

MESSAGE FROM THE HOUSE

May 20, 2004

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 71, 672, 1147, 1148, 1151, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1176, 1177 and 1181; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

May 20, 2004

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 715, 975, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1333, 1134, 1135, 1136, 1137, 1138, 1139, 1142, 1143, 1178 and 1188; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Friday, May 21, 2004: House Joint Resolutions Nos. 1050, 1295, 1316, 1317, 1318, 1319, 1320, 740, 953, 1047 and 1062; and Senate Joint Resolutions Nos. 936, 1205 and 1207.

This the 20th day of May, 2004.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Friday, May 21, 2004: Senate Bills Nos. 3528 and 3529.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Friday, May 21, 2004: Senate Bills Nos. 2617, 2973, 2987 and 3297; and House Joint Resolution No. 1009.

This the 20th day of May, 2004.
CROWE, Chairperson.

**SENATE
MESSAGE CALENDAR**

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Friday, May 21, 2004: Senate Bill No. 2152; and House Bill No. 3128.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 9:30 a.m., Friday, May 21, 2004, which motion prevailed.